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MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, August 1, 2006
Tuesday, 9:08 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Martz, Schlapp. (Council Member Skelton absent with prior notice).

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

Lakshmi Kambampati, of the Hindu religion gave the invocation.

The pledge of allegiance was participated in by the Council Members, staff, and guests.

The Minutes of the July 25, 2006 meeting were approved 6 to 0, (Skelton absent).

AWARDS AND PROCLAMATIONS

Proclamations:

Clown Week

Mayor Mayans read aloud a proclamation proclaiming August 1st -7th as Clown Week.

Recognition of Carole Fousset.

Mayor Mayans recognized Carole Fousset and thanked her volunteering her time as an intern in the IT/IS Department and presented her with a City Coin and a leather manual with the City of Wichita logo on it and wished her a safe trip back home to Orleans, France, which is a sister city of the City of Wichita.

PUBLIC AGENDA

Fred Marrs-WSU Mill Levy and Resolution that was adopted July 11, 2006.

Mr. Marrs

Mr. Marrs stated that he is here on behalf of the Shocker Black & Golds and would like to speak on two issues, the 1.5 City/County mill levy for WSU and the Off-Agenda Resolution put at the City Council Meeting July 11, 2006. Stated that 10 years ago he spoke to the Council seeking and requesting mill levy monies to save Cessna Stadium. Stated that they fought it through the legislature, won and went back to the university and had a committee and saved the stadium for \$3.2 million dollars. Stated that every year since they have the state high school track meet there and other track meets and 25, 000 kids come out to the state track meet and shortly the Rolling Stones will be performing at this stadium. Stated that he has copies of the 12 page annual WSU budget submittals and that WSU has advised they have provided no other documents to either the City or the County, accounting for the WSU Mill Levy Budget. The City Attorney's office has confirmed that the City has not received any other accounting documents for the WSU Mill Levy Budget. Stated that these documents are not sufficient to properly account for the contingency line item monies, in the last eight years \$4,323,653.00 went for contingency and he does not believe that anyone of the Council Members can tell him any of that money was spent. Stated that the campus land acquisition fund for \$900, 000.00 a year cannot be explained how that money was spent or what projects it went to. Stated that carry over line items as far as he can tell, there is no full accounting for what happens with this money and in 2002, he produced a document from the university that shows that \$580,000.00 was carried over and spent in 2003 but was advised by the president to be advised to the City and County and being line item monies that was spent

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in 2002. Stated that he has not discovered what that money was spent for. Stated since 1963 was when the mill levy was first authorized. Stated that our money is a gift money and other than debt service to capital improvements budget, they do not have any of the obligation to give any money to the university but when they give the money they have an obligation to designate it if they want and have a legal obligation to oversee the money and how they are specifically spent and the problem that he sees with the capital improvement budget is that the citizens in this county get taxed state wide to support everybody and get taxed to support capital improvement for WSU because the State Board of Regents relies on the mill levy to support capital improvements for WSU and does not give them their fair share of the capital improvements budget out of the state budget. Stated that the taxpayers of Sedgwick County get taxed twice as opposed to the taxpayers of the rest of the state in order to provide capital improvements for WSU.

CONSENT AGENDA

Mayor Mayans

Mayor Mayans requested that item 8b be pulled for discussion.

Motion--
--carried

Mayans moved that the Consent Agenda be approved in accordance with the recommended action, except for item 8b. Motion carried 6 to 0, (Skelton absent).

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED JULY 31, 2006.

Bids were opened July 28, 2006, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications

2006 Contract Maintenance Thermal Crack Repair, north of MacArthur, west of Hoover. (472-84430/132719) Traffic to be maintained during construction using flagpersons and barricades. (Districts IV, V)

Barkley Construction - \$99,800.00 (Engineer's Estimate)

2006 Contract Maintenance Concrete Drainage Repair, within City of Wichita limits. (472-84431/132719) Traffic to be maintained during construction using flagpersons and barricades. (District I, II, III, IV, VI)

Barkley Construction - \$149,800.00 (Engineer's Estimate)

Water Distribution System to serve Brighton Courts Addition, south of 21st Street North, west of Webb Road. (448-89857/735323/470994) Traffic to be maintained during construction using flagpersons and barricades. (District II)

McCullough - \$25,950.00

Motion--
--carried

Mayans moved that the contracts be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 6 to 0, (Skelton absent).

VARIOUS DEPARTMENTS/VARIOUS DIVISIONS:A/C & Furnace Filters

Total Filtration Services - \$36,653.13 *

*Estimate – Contract approved on unit cost basis; refer to attachments.

WATER & SEWER DEPARTMENT/SEWER MAINTENANCE DIVISION:
Root Control Herbicide

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Douglas Products & Packaging, Inc - \$.13875 cost per foot
*Estimate – Contract approved on unit cost basis; refer to attachments.

FIRE DEPARTMENT/SAFETY DIVISION: Emergency Egress System RIT Harness

Midwest Vehicle Professionals* - \$94,000.00
*Purchases utilizing Sole Source of Supply Ordinance No. 35-856, Section 2.(b)

Motion--
--carried
Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 6 to 0, (Skelton absent).

CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2006</u>	<u>(Consumption on Premises)</u>
Kevin Raven	Taco Tico*	460 North West Street
Kevin Raven	Taco Tico*	3131 North Rock Road
<u>Renewal</u>	<u>2006</u>	<u>(Consumption off Premises)</u>
Loan H. Le	KC Gas and Groceries No. 1	1102 West Maple
New Establishment	2006	(Consumption on Premises)
Nelson a. Chamacua	El Bahia	2855 South Hydraulic

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion--
--carried
Mayans moved that the licenses be approved subject to Staff review and approval. Motion carried 6 to 0, (Skelton absent).

PRELIM ESTS.

PRELIMINARY ESTIMATES:

- a) Wilson Estates Court from the north line of Wilson Estates Parkway to and including the cul-de-sac serving Lots 1 through 12, Block 1 to serve Legacy Park Wilson Estates 3rd Addition - south of 21st Street, west of Webb Road. (472-84404/766102/490119) Traffic to be maintained using flagpersons and barricades. (District II) - \$321,000.
- b) Storm Water Drain #263 to serve Fox Ridge Addition - north of 29th Street North, west of Tyler Road. (468-83997/751424/485315) Traffic to be maintained using flagpersons and barricades. (District V) - \$260,000.
- c) Lateral 3, Main 6 (Part D) Northwest Interceptor Sewer to serve Fox Ridge Addition, Phase 9 north of 29th Street North, east of Maize Road - (468-84202/744189/480877). Does not affect existing traffic. (District V) - \$298,000.
- d) Water Distribution System to serve Fox Ridge Addition - north of 29th Street North, east of Maize Road. (448-90204/735326/470997). (District V) - \$128,000.

Motion--carried
Mayans moved that the file be received. Motion carried 6 to 0, (Skelton absent)

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PETITION

CONSTRUCT SANITARY SEWER IMPROVEMENTS IN EMERALD BAY ESTATES ADDITION, WEST OF WEST STREET, NORTH OF 21ST STREET. (DISTRICT V)

Agenda Report No. 06-0771

On January 24, 2006, the City Council approved a Petition for Sanitary Sewer Improvements in Emerald Bay Estates Addition. Because of higher than expected construction costs, the developer has submitted new petitions to divide the project into two phases. The signature on the new Petitions represents 100% of the improvement districts.

The projects will provide sanitary sewer improvements within a residential development located west of West Street, north of 21st.

The existing Petition totals \$997,000. The new Petitions total \$1,836,000. The funding source is special assessments.

These projects address the Efficient Infrastructure goal by providing for the construction of sanitary sewer improvements in a new subdivision. They also address the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or by owners of the majority of property in the improvement district.

Motion--
--carried

Mayans moved that the New Petitions be approved; the Resolutions adopted and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

RESOLUTION NO. 06-410

Resolution of findings of advisability and resolution authorizing construction of lateral 1, main 23, southwest interceptor sewer (west of West Street, north of 21st) 468-84139 in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans. (Skelton absent)

RESOLUTION NO 06-411

Resolution of findings of advisability and resolution authorizing construction of lateral 2, main 23, southwest interceptor sewer (west of West Street, north of 21st) 468-84209 in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans. (Skelton absent)

DEEDS/ESMNTS

DEEDS AND EASEMENTS:

- a) Drainage Easement dated June 26th, 2006 from Kelley & Coleman, In., a Kansas Corporation over a tract of land lying over portions of Lots 3 and 1, Block A, Steve Kelley 5th Addition, Wichita, Sedgwick County, Kansas, (OCA# 607861). No Cost to City. D17882
- b) Waterline Easement dated June 6th, 2006 from Reflection Ridge Retirement Community, LLC over a tract of land lying in Lot 1, Block 1, Reflection Ridge West 2nd Addition to Wichita, Sedgwick County, Kansas (OCA# 607861). No Cost to City. D17883
- c) Drainage Easement dated June 6th, 2006 from Reflection Ridge Retirement Community, LLC over a tract of land lying in Lot 1, Block 1, Reflection Ridge West 2nd Addition to, Wichita, Sedgwick County, Kansas, (OCA# 607861). No Cost to City. D17884

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- d) Utility Easement dated June 6, 2006 from Kenneth and Maureen Kimball, over a tract of land lying in Lot 7, Block 2, Rainbow Lakes West Addition to Sedgwick County, Kansas, (OCA# 130161). No Cost to City. D17885
- e) Utility Easement dated July 1, 2006 from Rene Martinez, over a tract of land in Lot 3, Block 2, Rainbow Lakes West Addition to Sedgwick County, Kansas, and (OCA # 130161). No Cost to City. D17885

Motion--carried

Mayans moved that the documents be accepted. Motion carried 6 to 0, (Skelton absent).

STREET CLOSURE

WICHITA FLIGHT FESTIVAL, AUGUST 24, 25 AND 26, 2006, JABARA AIRPORT (3500 BLOCK OF WEBB ROAD INCLUDING THE INTERSECTION OF 43RD STREET NORTH AND WEBB ROAD)

Agenda Report No. 06-0772

In accordance with the Community Events Procedure, Wichita Festivals, Inc. is coordinating with City of Wichita Staff, subject to final approval by the City Council.

The following street closure request has been submitted:

Wichita Flight Festival, August 24, 25 and 26 Jabara Airport

- § 3500 block of Webb Road including the intersection of 43rd Street North and Webb Road.
- Friday, August 24th 6:00 pm – 11:00 pm
- Saturday, August 25th 10:00 am – 5:00 pm
- Sunday, August 26th 10:00 am – 5:00 pm

Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Enhance the Quality of Life

Motion--

Mayans moved that the request be approved subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Event Coordinator. Motion carried 6 to 0, (Skelton absent).

--carried

(Item 8b)

STREET CLOSURE

2006 WAGONMASTERS DOWNTOWN CHILI COOKOFF, SEPTEMBER 30, 2006, 6:00 A.M. TO 6:00 P.M. **(500 & 600 BLOCK OF EAST DOUGLAS, EMPORIA TO VIADUCT BRIDGE; 100 BLOCK OF NORTH ST. FRANCIS, 100 BLOCK OF SOUTH ST. FRANCIS)**

Agenda Report No. 06-0773

In accordance with the Community Events Procedure, Wichita Festivals, Inc. is coordinating with City of Wichita Staff, subject to final approval by the City Council.

The following street closure request has been submitted:

- 2006 Wagonmasters Downtown Chili Cookoff, September 30, 2006 6:00 am – 6:00 pm
- § 500 and 600 block of East Douglas, Emporia to Viaduct Bridge.
- § 100 block of North St. Francis
- § 100 block of South St. Francis

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Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Enhance the Quality of Life

Mayor Mayans Mayor Mayans stated that it has been brought to his attention that one of the requirements at this event is that there be a 6-foot fence around the beer garden. Stated that some of the vendors have told him that it looks like a prison and asked staff if there was something different that could be used to make this appear to be more customer friendly.

Gary Rebenstorf Director of Law explained that under state law and city ordinance, it is required that area where liquor or cereal malt beverages are going to be served, that it be cornered off with a fence. Stated that they have worked in the past with the River Festival on different types of fences and if they would like to contact the Police Department, they can look into it and see what else they can do.

Motion-- Mayans moved that the request be approved subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Event Coordinator. Motion carried 6 to 0, (Skelton absent).
--carried

STREET CLOSURE STREET CLOSURE: 151ST STREET FROM MAPLE TO MOSCELYN. (DISTRICT V)

Agenda Report No. 06-0806

Cornejo and Sons, Inc. have contracted to reconstruct 151st St. West in west Wichita. This project was approved by the City Council on July 11, 2006 and project specifications allowed for a related street closure during the project construction. The existing roadway is a sand/gravel roadway with open ditches. The planned reconstruction will perform excavation and grading of the existing roadway, installation of a compacted sub grade, and the laying of a 26' wide asphalt roadway. The contractor is requesting a four-week closure of this half-mile section of 151st St. to minimize traffic and related construction safety concerns and reduces the length of time needed for construction. The requested street closure is tentatively scheduled to begin approximately 9:00 a.m. Wednesday, August 2nd and be completed on or before August 25th, 2006.

Cornejo and Sons, Inc. are responsible for the placement of the required detour and construction signs and barricades and the notification of area businesses and residents. During the street closure traffic on 151st St. West will be detoured as follows:

Southbound 151st St. traffic will be detoured west on Maple to 167th St. West, then south to U.S. 54/400 (Kellogg), then east to return to 151st St. West.

Northbound 151st St. traffic will be detoured east on U.S. 54/400 (Kellogg) to 135th St. West, then north to Maple, then west to return to 151st St. West.

This project addresses the Efficient Infrastructure goal by improving traffic flow through a major traffic corridor.

Motion--carried Mayans moved that the street closure be approved. Motion carried 6 to 0, (Skelton absent).

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37TH ST. N IMPROV

CITY OF MAIZE FOR 37TH STREET NORTH IMPROVEMENT BETWEEN TYLER AND RIDGE. (DISTRICT V)

Agenda Report No. 06-0774

On March 8, 2005, the City Council approved a project to improve 37th St. North, between Tyler and Ridge. Part of the street right-of-way is in the City of Maize. An agreement has been prepared which provides Wichita authority to construct the project within Maize city limits. Maize has agreed to acquire needed right-of-way within the Maize city limits.

The project will reconstruct 37th St. North to provide a four-lane roadway with landscaped medians for left turn lanes. The existing bridge located approximately 1,300' west of Ridge will be replaced with a new four-lane structure.

The estimated project cost is \$5,200,000 with \$1,200,000 paid by the City of Wichita and \$4,000,000 by Federal funds. The funding source for the City share is General Obligation Bonds.

This project addresses the Efficient Infrastructure goal by improving traffic flow through a major traffic corridor.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement with the City of Maize be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

ASPHALT OVERLAY

CITY OF MAIZE FOR AN ASPHALT OVERLAY ON 37TH STREET NORTH BETWEEN MAIZE AND TYLER. (DISTRICT V)

Agenda Report No. 06-0775

37th St. North, between Maize and Tyler, is partially within the Wichita city limits and partially within Maize city limits. The existing asphalt pavement is beginning to fail. An agreement has been prepared which provides Maize authority to administer a maintenance project to extend the life of the pavement. The agreement provides that the Cities of Wichita and Maize will each pay ½ of the project cost.

The project will provide 5" asphalt overlay onto the existing two-lane asphalt mat pavement.

The estimated project cost is \$64,500, with \$32,500 paid by the City of Wichita and \$32,500 paid by Maize. Funding for the City's share is available from the 2006 Arterial Street Rehabilitation Program. The funding source for the City's share is General Obligation Bonds.

This project addresses the Efficient Infrastructure goal by extending the life of a paved arterial street.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement with the City of Maize be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

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PSI REPORTS

CONTRACT FOR PRE-SENTENCING EVALUATION REPORTS.

Agenda Report No. 06-0776

State law requires a pre-sentence evaluation be conducted for persons convicted of driving under the influence of alcohol or drugs. Additionally, the judges may order pre-sentence evaluation reports on other violations of the City Code, such as domestic violence and possession of drugs. For the past twelve years, the Municipal Court has contracted with an outside agency for the completion of these pre-sentence investigation reports. The selected contractor must be Alcohol and Drug Safety Action Program certified or licensed. The pre-sentence evaluation reports contain criminal histories, prior arrest records, victim impact and restitution information, social history information and assessments of the severity of alcohol/drug or domestic violence offenses. Prior to sentencing, the judges use the pre-sentence investigation reports to evaluate the defendants' criminal history.

The Municipal Court Administrator, Probation Office Supervisor, and the Purchasing Manager evaluated the Request for Proposal submitted. The request for proposal was mailed to 12 vendors – only the current contractor, a locally, woman-owned small business responded, Correctional Counseling of Kansas. Staff has reviewed the proposal submitted and feels it is fair and reasonable and meets the requirements set out in the Request for Proposal. Correctional Counseling of Kansas has thirteen years previous experience in providing contract pre-sentence evaluations for the Court. These pre-sentence evaluations are conducted on defendants arrested for Driving Under the Influence of Alcohol and for those defendants that have applied for the Driving Under the Influence Diversion Program. The proposed contractor has maintained the same cost to provide pre-sentence evaluation reports for this contract period as was provided for in the past contract period of \$62.50 per report.

The proposed contractor has maintained the same cost to provide pre-sentence evaluation reports for this contract period as was provided for in the past contract period of \$62.50 per report. Municipal Court has an approved budget of \$50,500 for this contract.

This agreement addresses the Safe and Secure Community goal by providing the judge with the defendant's criminal history prior to sentencing. This allows the judge to impose a sentence and conditions of probation that best meet the interests of justice.

The Law Department has approved the contract as to form.

Motion--
--carried

Mayans moved that the contract be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

WIP

CONTRACT FOR WICHITA INTERVENTION PROGRAM INSTRUCTOR.

Agenda Report No. 06-0777

State statute requires first conviction drunk drivers to be incarcerated for forty-eight hours and attend alcohol intervention classes. In 1984, Municipal Court established the Wichita Intervention Program which combined both aspects, incarceration and intervention classes, in a setting outside of jail. The City of Wichita Intervention Program was the second intervention program in the nation and the only one in Sedgwick County.

Offenders in the program are confined at a Wichita motel and must attend 21 hours of lectures, group sessions, presentations by guest speakers and self-assessments. An instructor, certified as an alcohol and drug counselor, leads the intervention process. The instructor also provides direction to security guards and acts as liaison to the hotel manager.

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A Request for Proposal was sent to twenty-three (23) vendors outlining the instructor services. Only the current vendor, Heartstone Substance Abuse Services, responded. Staff has reviewed the proposal and feel it is fair and reasonable and meets the requirements set out in the Request for Proposal. Heartstone has spent over a decade providing educational services to Driving While Under the Influence (DUI) offenders, and has also been the primary vendor for the Wichita Intervention Program (WIP) for the past nine (9) years. Heartstone has excellent credentials in education and experience and has run a quality and effective intervention program. The participants regularly make statements that the program is a positive and enriching experience for them.

The Wichita Intervention Program (WIP) is funded from the General Fund; however, all costs are offset entirely by revenues generated from participant fees. Two hundred fifty dollars (\$250.) is collected per participant prior to attendance and offsets the costs of all aspects of the WIP program; the hotel facility, guard service, facilitators, speakers and administration costs. The total 2006 Revised budget for the Wichita Intervention Program is \$294,570.

In response to the Request for Proposal (RFP), the proposed contractor submitted an hourly rate of \$32.80, or \$852.80 per weekend compared to the current cost of \$832.00 per weekend, with a two percent (2%) hourly increase per contract renewal period. The proposed increase is a minimal increase over the past contract periods. With approval of this contract, the increased cost will be absorbed within the Municipal Court's budget.

This agreement addresses the Safe and Secure Community goal by providing education and intervention to those convicted of DUI. Through education and intervention this program seeks to reduce repeat DUI offenses by defendants.

The Law Department has approved the contract as to form.

Motion--
--carried

Mayans moved that the contract be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

CONSOLID PLAN

2006/2007 CONSOLIDATED PLAN CONTRACTS.

Agenda Report No. 06-0778

On March 21, 2006, the City Council allocated Community Development Block Grant (CDBG) and Emergency Shelter Grant (ESG) funds for the 2006/2007-program year. Included in the 2006/2007 allocations are several projects requiring City Council approval to execute the contracts.

The agency contracts provide operating assistance for the approved projects. The contracts will be for a 12-month term beginning July 1, 2006 and ending June 30, 2007.

The following indicates the funding source and each contract amount:

CDBG	Family Services Institute	\$81,593
Harbor House		\$112,033
Urban League of the MidPlains		\$10,000
Wichita Indochinese Center		\$81,593
YMCA Youth Recreation & Enrichment		\$100,000
YWCA Women's Crisis Center		\$157,000
ESG	Anthony Family Shelter	\$24,154
Center of Hope		\$9,690
Harbor House		\$6,692
Inter-Faith Inn		\$23,811
Safe Haven		\$8,759
Salvation Army		\$22,027
United Methodist Urban Ministries		\$20,780
YWCA Women's Crisis Center		\$3,615

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Funding provided through the execution of the contracts will enhance the goals of supporting a Dynamic Core area and Vibrant Neighborhoods and Enhancing the Quality of Life.

Contracts have been negotiated with the agencies and signed by their authorized representatives. The Law Department has reviewed and approved the contracts as to form.

Motion--
--carried

Mayans moved that the contracts be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

MICROSOFT OFFICE ENTERPRISE AGREEMENT FOR MICROSOFT OFFICE SYSTEM.

Agenda Report No. 06-0779

A Microsoft Enterprise Agreement allows the City to contract with Microsoft exclusively for the Office Suite products. The agreement reduces both the initial purchase price and provides productivity benefits, support tools, and training.

The Microsoft Office products were last upgraded in May 2001; the most current version of the product is Office 2003. Microsoft will release Office 2007 in December 2006. The Enterprise Agreement will provide licenses for the 2007 product at the price charged for the 2003 product.

The Enterprise Agreement simplifies license administration; by buying licenses one time a year instead of hundreds of times throughout the year. The City is guaranteed 2000 licenses, which allow for some growth over the year. Currently the City has 1900 licenses. Another advantage is that the Enterprise Agreement allows City employees to purchase Microsoft products at a significant discount. The Enterprise Agreement also includes Software Assurance, a package of productivity benefits, support, tools, and training.

The IT/IS Advisory Board has approved the plan to upgrade the Office products and enter into the Enterprise Agreement.

The Purchasing Manager has reviewed and approved the Enterprise Agreement.

This three-year agreement starts in 2006, with annual payments of \$288,723. Funding is included in the 2007 Proposed Budget.

Internal Perspective, as it allows staff to more efficiently manages the business.

The Agreement has been reviewed and approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved; the expenditure authorized and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

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BRIGHTON CT.

**BRIGHTON COURTS ADDITION, SOUTH OF 21ST STREET WEST OF WEBB.
(DISTRICT II)**

Agenda Report No. 06-0780

The City Council approved the water distribution system, sanitary sewer and paving improvements in Brighton Courts Addition on July 15, 2003.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond-financed improvements consisting of water, sanitary sewer and paving in Brighton Courts Addition. Per Administrative Regulation 1.10, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$23,400 and will be paid by special assessments.

This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of water, sanitary sewer and paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

FOX RIDGE ADD.

**FOX RIDGE ADDITION, NORTH OF 29TH STREET NORTH, WEST OF TYLER.
(DISTRICT V)**

Agenda Report No. 06-0781

The City Council approved the paving improvements in Fox Ridge Addition on October 4, 2005.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond-financed improvements consisting of paving in Fox Ridge Addition. Per Administrative Regulation 1.10, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$81,000 and will be paid by special assessments.

This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

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PROP. ACQUIS.

PARTIAL ACQUISITION OF LAND FOR RIGHT-OF-WAY AT 7817 WEST 37TH STREET NORTH. (DISTRICT V)

Agenda Report No. 06-0782

In January 2006, staff was instructed to pursue acquisition of several tracts of land for roadway and storm water drainage improvements along West 37th Street between Ridge Road and Tyler Road. There are five tracts required for the project. These are strip acquisitions along the north line of three residentially zoned parcels and two commercially zoned parcels. The owners of the commercial parcels have agreed to donate the necessary right-of-way and easements. On April 25, 2006 the City Council approved acquisition of the residential properties through eminent domain and staff was instructed to continue the negotiations.

The project requires 10,128 square feet from the property at 7817 West 37th Street North. This parcel has approximately 30 acres and is improved with a single-family residence and out buildings. The improvements are distanced from the road and will not be impacted by the project. There are some trees and landscaping within the proposed acquisition area.

The tract at 7817 West 37th Street was appraised at \$16,800. This includes \$3,200 (\$.32 per square foot) for the land, \$2,400 for a permanent easement (\$.32 per square foot) plus \$11,200 in damages. The owner rejected this offer and countered at \$38,900 based on a land value of \$1.00 psf for both the easement and right-of-way plus damages to replace the berm along the north property line, damages to trees and landscaping. Comparable sales supporting up to \$1.00 per square foot were presented. City staff recommends that the City agree to accept the owner's counter offer of \$38,900 which is \$1.00 per square foot for the land and \$21,175 as damages to the berm, trees and landscaping.

A budget of \$40,000 is requested for the acquisition. This amount includes \$38,900 for the acquisition and \$1,100 for closing costs and title insurance. The funding source is General Obligation Bonds and Federal Grants administrated by the Kansas Department of Transportation.

The acquisition of this parcel is necessary to ensure efficient infrastructure as this area is rapidly growing.

The Law Department has approved the contract as to form.

Motion--
--carried

Mayans moved that the Real Estate Purchase Contract be approved; the budget approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

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PROP. ACQUIS.

ACQUISITION OF 3911 EAST KINKAID FOR THE DRY CREEK BASIN PROJECT. (DISTRICT III)

Agenda Report No. 06-0783

There have been several, flooding incidents along the Dry Creek basin in East Wichita. As a result of this, the City Council approved a voluntary property acquisition program. The program calls for the acquisition of up to 16 residential properties that have habitable floors that are below the one hundred year flood elevation. One such property is 3911 East Kinkaid. The site consists of 15,246 square feet and is improved with a 1,461 square foot brick, ranch single-family residence.

The appraised value of \$120,000 was offered to the owner. The owner has agreed to sell the property for this amount. The improvements will be removed and the site maintained as open space.

A budget of \$125,850 is requested. This includes \$120,000 for the acquisition, \$5,000 for demolition and \$850 for closing costs and title insurance. The funding source is the Storm Water Utility.

The acquisition of this parcel is necessary to ensure efficient infrastructure and flood control in this area.

The Law Department has approved the contract as to form.

Motion--
--carried

Mayans moved that the Real Estate Purchase Contract be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

C&D FILLING

LANDFILL GAS SYSTEM RELOCATION FOR PHASE II OF C&D FILLING. (DISTRICT VI)

Agenda Report No. 06-0784

The Brooks Landfill currently operates as a construction and demolition (C&D) waste landfill. The first phase of filling will be completed in the fall of this year. A second, and much larger phase, will be used upon closure of the first fill area.

In order to maximize the air space available for Phase II of the C&D fill, it will be necessary for a portion of the existing landfill gas collection system to be relocated. Wichita Gas Producers, LLC has completed the design and specification for the relocation work, pre-qualified firms who can perform the work, and has received competitive bids for the relocation of the impacted facilities.

The City will derive all of the benefit of the relocation of these facilities as it increases the available air space for filling while continuing to provide for the effective collection of the landfill gas that is being produced from the closed municipal solid waste cells.

Bids received were received from three companies and are summarized here:

Company	Bid Amount
Shaw	\$564,945.00
AEG	\$488,825.00
Landmarc	\$411,638.75

Included in these bid amounts are the costs incurred by Wichita Gas Producers for a consulting engineering firm (Weaver Boos Consultants – LLC Southwest) to design the changes. The total cost of the project based on the low bid received is therefore \$411,638.75. This total represents the maximum amount to be paid to Wichita Gas Producers. Payment to Wichita Gas Producers will be for their actual cost and will be subject to this maximum amount.

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The project will address the Efficient Infrastructure Goal by maximizing the disposal capacity for construction and demolition waste in the Phase II area of the Brooks C&D Landfill.

Funds are available within the Landfill Budget for this project. The project will be reflected in the revised 2006 Landfill Budget if the project is approved by the City Council.

The Law Department has approved the Third Amendment to the Landfill Rights Agreement as to form.

Motion--

Mayans moved that the project to relocate a portion of the landfill gas collection system at the Brooks Landfill to allow for Phase II C&D filling operations be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

--carried

HERZOG

OPERATING AGREEMENT EXTENSION-HERZOG ENVIRONMENTAL, INC. (DISTRICT VI)

Agenda Report No. 06-0785

On June 6th, 2001, the City of Wichita entered an agreement with Herzog Environmental, Inc. to operate a C&D landfill on the Brooks site for a five-year period. Herzog began operations on October 1, 2001.

The original agreement provided for a five-year extension for operation at Brooks, subject to re-negotiation of contract terms. Herzog has performed well since beginning operations in 2001, and the City of Wichita and Herzog Environmental, Inc. mutually wish to continue operations under the terms of the original contract.

The original agreement specified a maximum first year tipping fee, payment to the City of Wichita for non-City waste received, and terms by which the tipping fee charged to the public can be adjusted. Compensation during this five-year extension will be identical to those outlined in the original contract.

During the first 5 years (from October of 2001 to May of 2006) of the agreement the City of Wichita's revenue was \$1.8M and Herzog's approximate revenue was \$2M. In addition, the agreement allows for free hauling of debris by City crews, and over 133,000 City tons were hauled during the agreement period. Based on the normal \$20 tipping fee, that represents a savings to the City of \$2.6M.

This work will support the Core Area and Neighborhood Goal by continuing to provide affordable construction and demolition (C&D) waste disposal for the public and City of Wichita cleanup crews. The continued operation of the C&D Landfill is vital to maintain the cleanliness and vitality of the city.

The original agreement, and therefore this extension have been approved by the Law Department.

Motion--

Mayans moved that the five-year extension with Herzog Environmental, Inc., to operate the Brooks C&D Landfill be approved. Motion carried 6 to 0, (Skelton absent).

--carried

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ABENGOA

ABENGOA BIOENERGY OF KANSAS NON-POTABLE WATER SUPPLY LINE/DESIGN-BUILD.

Agenda Report No. 06-0786

On July 18, 2006, City Council approved an Agreement to sell non-potable water to Abengoa Bioenergy of Kansas. The water will be for a proposed ethanol plant in the vicinity of Colwich. To operate the plant, Abengoa will require a reliable water source capable of supplying approximately 1.7 million gallons of water daily to the facility. Discussions between the City and Abengoa regarding requirements, in term of quantity and quality, determined that the best source would be the raw water transmission line from Cheney Reservoir.

Water from the Cheney non-potable water supply line to the treatment plant is the best and most economical option for supplying water to the Abengoa facility. Approximately 4.8 miles of 16-inch pipeline are proposed from the raw water transmission line to the facility. Metering facilities will also be required for the project.

The projected cost for the 16-inch pipeline and all appurtenances is estimated at \$3 million. Abengoa will contribute one-half of the capital to construct the facilities, up to a maximum of \$1.5 million. The Water Utilities' share is approximately \$1.5 million and will be funded from CIP W-65, Unidentified Water Mains. The project will be funded from Water Utility revenues and reserves, and/or a future revenue bond issue.

This project addresses the Economic Development goal by supplying non-potable water to an ethanol facility. \$176,000,000 will be invested in the plant, and the metropolitan area will see an impact of additional jobs. Abengoa projects that 55 direct permanent jobs and 155 indirect permanent jobs will result from the facility.

Charter Ordinance No. 111 requires City Council approval for a design-build project prior to issuing Requests for Proposals.

Motion--
--carried

Mayans moved that the project be approved as a design-build; Staff authorized to proceed with Request for Proposals; and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

ORDINANCES

SECOND READING ORDINANCE (FIRST READ JULY 25, 2006).

ZON2005-00058 - GENERALLY LOCATED WEST OF OLIVER AVENUE AT THE NORTHEAST CORNER OF CENTRAL AND CRESTWAY AVENUES. (DISTRICT I)

Motion--carried

Mayans moved that the Ordinance be adopted. Motion carried 6 to 0, (Skelton absent).

47-091

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, introduced and under the rules laid over.

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UNFINISHED BUSINESS

TIF

CONTINUANCE OF PUBLIC HEARING ON THE ESTABLISHMENT OF A REDEVELOPMENT DISTRICT, TAX INCREMENT FINANCING FOR THE DOUGLAS AND HILLSIDE REDEVELOPMENT PROJECT. (DISTRICT II) (CONTINUED FROM JULY 11, 2006)

Allen Bell

Economic Development Administrator reviewed the item.

Agenda Report No. 06-0787

On July 11, 2006, the City Council opened a public hearing to consider the establishment of a redevelopment district in the area of Douglas & Hillside, to be known as the Douglas & Hillside Redevelopment District, for the purpose of facilitating the use of tax increment financing. The City Council voted to continue the public hearing until August 1, 2006, to allow time for the developer to submit additional financial information showing the need for public funding assistance in order to undertake the proposed redevelopment project.

The area proposed for redevelopment is bounded on the south by Douglas Avenue, on the west by Hillside Avenue, on the north by First Street and includes property parcels adjacent to the east of Rutan Avenue, as shown on the map attached to the attached ordinance. This is an area that qualifies as a "conservation area" under the state TIF statutes, in that most of the buildings in the area were built well over 35 years ago, and there are excessive vacancies, building abandonment and signs of dilapidation, obsolescence or deterioration. The area was the site of the original Wichita Clinic Building, which has recently been demolished. In 1988, the building was purchased by the State of Kansas and served as the regional office of the Kansas Department of Social and Rehabilitative Services (SRS). In 1995, the building and adjacent parking lots were purchased by the City of Wichita and Sedgwick County as part of the project to consolidate state agencies into the former Dillard's Building in downtown Wichita. It was sold to Rusty Eck and has remained vacant since 1995.

A local real estate development company, Loveland Properties L.L.C., proposes to purchase the former Clinic/SRS site and other property within the proposed redevelopment district and construct a mixed-use commercial development. The general plan for redevelopment calls for construction of a high-rise residential condominium building with an attached parking structure, several brownstone-type condominium town homes, a public pocket park, public parking facilities and a commercial retail building located at Douglas and Rutan. Tax increment financing would be used to pay for eligible redevelopment costs, which include (without limitation) land acquisition, demolition, site preparation, utilities, landscaping, paving, and public infrastructure.

Tax increment financing (TIF) allows the increased property tax revenue that results from the redevelopment of under-utilized property to be reinvested in the redevelopment. When a TIF district is established and a redevelopment plan is adopted by City Council, the increased tax revenue is set aside by the County Treasurer and can be used by the City to repay bonds issued to finance eligible improvements that are specified in the redevelopment plan and allowed under state law. Such improvements can be financed with TIF bonds or on a pay-as-you-go basis.

A TIF review team, consisting of staff from the City, County and USD 259 has met with the developer to examine the preliminary details of the proposed redevelopment project and consider whether the project either needs or merits public funding assistance. The developer has given firm assurances that he is not prepared to pursue the project further without the possibility of obtaining public funding assistance through TIF. He asserts that the high cost of land adjacent to the Rusty Eck property, which is necessary for successful completion of the project, cannot be supported by the anticipated cash flows generated by the project. That, and other factors such as rising construction costs and interest rates make this project especially risky. The developer has agreed to develop a financial analysis that clearly demonstrates the need for public funding, and to provide the information to staff prior to the continuance of the public hearing on August 1st.

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The Board of County Commissioners and the Board of Education for USD 259 will have 30 days following the closing of the public hearing to determine whether establishment of the district will have an adverse impact on them, effectively precluding the use of tax increment financing. If the County and School District approve, or take no action in that time, the tax increment-financing district will be established.

It will still be up to the City Council to approve the ultimate use of tax increment financing by adopting a redevelopment plan for the Douglas and Hillside Redevelopment District that includes tax increment financing. Once a redevelopment plan is adopted and sent to the County Clerk, the tax increment revenue generated by redevelopment will be set aside and deposited into a special fund for its prescribed use. TIF revenue will continue to be set-aside in this way until all TIF-financed improvements have been paid, including the retirement of any TIF bonds.

The establishment of a redevelopment district will facilitate the use of tax increment financing to pay the cost of a portion of public improvements constructed in conjunction with the proposed Douglas and Hillside redevelopment project. Only if the project is approved, a redevelopment plan adopted, and the specific improvements authorized by Council action, will the tax increment revenues generated in the district will actually be utilized.

Economic Vitality and Affordable Living and Quality of Life. Redevelopment of blighted areas, and declining areas, are needed to avoid economic stagnation. Business prospects and workers seeking to relocate are attracted to a new city that takes care of its older sections.

The ordinance establishing the redevelopment district has been reviewed by the City's Law Department and approved as to form. The City Council may amend the proposed boundaries to reduce the size of the redevelopment district at the time of adoption of the ordinance.

Allen Bell Economic Development Administrator stated that both the developer and staff would like to ask the City Council to defer this item for one more week and since it is a public hearing, deferring it would mean to continue the public hearing until August 8, 2006.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion-- Schlapp moved that the public hearing be continued one week until August 8, 2006. Motion
--carried carried 6 to 0, (Skelton absent).

MINORITY BUS. CONTRACT-MIDAMERICA MINORITY BUSINESS DEVELOPMENT COUNCIL. (DEFERRED JULY 11, 2006)

Kelly Carpenter Director of Finance reviewed the item.

Agenda Report No. 06-0788

Staff presented at the July 11, 2006 City Council meeting to approve the contract with MidAmerica Minority Business Development Council in the amount of \$30,000 for economic development services on the new business agenda. City Council deferred this action to request from the Supplier Diversity Task Team their recommendation and seek any input or suggestions they may offer. Staff met with the Supplier Diversity Task Team at their 2nd Quarterly 2006 meeting on Monday, July 17, 2006. The seven task team members present at the meeting; recommendation for the City Council is to approve the contract with MidAmerica Minority Business Development Council. MAMBDC will provide programs and events, along with networking opportunities to target minority business growth. The majority of their programs and events are open to all small, minority or women-owned businesses for a small nominal fee. National certification will be available to minority owned companies for a fee. Staff has developed the necessary contractual documents and performance measurements, which will include the City of Wichita a corporate 2007 membership.

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The MidAmerica Minority Business Development Council (MAMBDC) is a non-profit organization that was created in 1983 (formerly the Minority Supplier Council). Its mission statement is to promote and enhance minority owned business enterprises by increasing business opportunities and access to mainstream markets. The intent of the organization is to grow the number, capacity and average gross receipts of minority business through linkages with majority businesses.

A contract has been negotiated with the MAMBDC, which establishes performance measures and performance outcomes and a 2007 corporate membership. MAMBDC 2006 performance measures and performance outcomes are attached in Exhibit B. Small, minority-owned and women-owned businesses would be served under the contract. The contract term is August 1, 2006 to July 31, 2007.

The contract amount is \$30,000 and funding is appropriated in the 2006-adopted budget.

Promote Economic Vitality and Affordable Living goal by MAMBDC is to grow the number, capacity and average gross receipts of minority businesses through linkages with majority businesses.

The contract has been reviewed and approved as to form by the Law Department.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Mayans moved that the contract be approved and the Mayor authorized to sign. Motion carried 6 to 0, (Skelton absent).

PETITION

PETITION TO PAVE GOVERNOR AND OSIE CIRCLE SOUTH OF HARRY. **(DISTRICT III)** **(DEFERRED JULY 11, 2006)**

Chris Carrier

Public Works Director reviewed the item.

Agenda Report No. 06-0789

The signatures on the Petition will represent 3 of 8 (37.5%) resident owners and 83% of the improvement district area. One of the tracts in the improvement district is owned by the City of Wichita. District III Advisory Board sponsored a June 7, 2006, neighborhood hearing on the project. The Board voted 6-4 to recommend approval of the project.

The project will provide paved access to a developed commercial area located south of Harry, west of Rock. The City owned tract is the site of a water booster station.

The estimated project cost is \$275,000 with the total assessed to the improvement district. The method of assessment is the fractional basis. The estimated assessment to individual properties is \$00.24 per square foot of ownership. The City's share of the project is \$212,065. The funding source for the City share is the Water Utility.

This project will address the Efficient Infrastructure goal by providing paving improvements for commercial development.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Council Member Fearey

Council Member Fearey stated that an e-mail was just sent out by the City Manager and that the City Manager spoke to Council Member Skelton and was told that Council Member Skelton has no problem with this item being approved today.

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Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Mayans moved that the Petition be approved; the Mayor authorized to sign the petition on behalf of the City of Wichita; the Resolution adopted and the necessary signatures authorized.

--carried

Motion carried 6 to 0, (Skelton absent).

RESOLUTION NO. 06-412

A Resolution of findings of advisability and resolution authorizing constructing pavement on Gouverneur from the south line of Harry to the south line of Osie Circle, and on Osie Circle from the east line of Gouverneur to the cul-de-sac (south of Harry, west of Rock) 472-84428 in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans. (Skelton absent).

ART MUSEUM

WICHITA ART MUSEUM IMPROVEMENTS. (DISTRICT VI) (CONTINUED NOVEMBER 15, 2005)

Ed Martin

Building Services Manager reviewed the item.

Agenda Report No. 06-0790

The Wichita Art Museum (WAM) is a facility that has been constructed over the years through a series of additions to the small building that originally occupied the site.

Stains on the ceiling and upper walls of the rotunda below the penthouse indicate water leaks which constitute a threat to the safety of the art work displayed in that area.

On November 15, 2005, Council approved a project and the selection of Schaefer Johnson Cox Frey (SJCF) to conduct a thorough investigation of all the potential sources of the leaks and to arrive at a schematic plan and budget for resolving the problems.

The architects' analysis determined that the cause of the water stains was leakage from a defective and outdated steam humidification system in the mechanical equipment penthouse located on the roof above. Steam had condensed in the ductwork and air-handling units, causing corrosion that opened holes in the metal and allowed the condensate to drip onto the floor. This water then seeped through the 30-year-old floor covering, creating the stains on the ceiling and walls below. The architects also determined that the penthouse structure needs to be modified and an adjacent roof needs to be replaced due to their potential for causing additional leakage. While work is taking place to eliminate the current and potential future water leaks, the architects recommended that the emergency power system be updated as well. Following their analysis, SJCF presented two options for performing the recommended repairs.

Option One: Remove the old Multi-Zone Air Handling Units (MZU's), and install new MZU's along with new ductwork and a modern humidification system. To remove and replace the MZU's, a large portion of the penthouse structure would have to be removed to provide access, thus exposing the interior of the Museum to the outside elements for a number of days. Under this plan, the existing bituminous flooring would be also removed, and a new waterproof membrane would be installed on the floor. Roofing, siding, insulation, and emergency power deficiencies would also be addressed. This option is estimated at \$1,340,649.

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Option Two: Refurbish the existing MZU's in-place by repairing the corroded areas on the metal cabinets and installing all new interior components. This would be less expensive than buying new MZU's but would be of equal quality, and it would eliminate the need to remove a portion of the penthouse for access. New ductwork and a modern humidification system would be installed just as in Option One. Also, instead of installing a totally new membrane on the floor, the existing bituminous flooring would remain in place and be repaired with a new traffic coating applied to the surface. In addition, a waterproof membrane would also be placed under the MZU's to complete the floor repair. Roofing, siding, insulation, and emergency power deficiencies would also be addressed the same as in Option 1. This option is estimated at \$998,813.

Staff has determined that Option Two is the preferred choice. It will provide equal results to Option One without exposing the mechanical room to the exterior. All components of the building envelope remain in place keeping the building weather tight and secure during all phases of the work.

A contract amendment has been negotiated with SJCF to provide complete design, architectural, mechanical, electrical, structural engineering and related services for completion of the project described as Option Two at a single stipulated lump sum fee including reimbursable expenses of ninety-nine thousand dollars (\$99,000.00) which shall constitute complete compensation for their services through construction.

The approved 2005-2014 Capital Improvement Program (CIP) includes \$15,000 in 2006 and \$150,000 in 2007 for a total of \$165,000 for the WAM project (Project No. 435416, OCA 792484).

On October 18, 2005, Council approved the allocation of \$2.25 million in CIP Planned Savings for use in making capital repairs to City facilities. Repairs would primarily consist of major mechanical and structural. Repair to the air handling system at the Art Museum was listed as a potential example of projects to be funded from this money. Based on the estimated construction cost for Option Two, architectural/engineering fees, finance charges and other miscellaneous expenses we would need to use approximately \$953,000 from the CIP Planned Savings Project.

This project addresses the Efficient Infrastructure goal by providing needed maintenance of a City Building.

The Law Department has approved the Contract Amendment as to legal form.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

Eric Ingstram

Mr. Ingstram stated that he is President of the Board of Trustees of the Wichita Art Museum Inc. and asked the supporter of the museum to stand. Stated that they emphatically support the proposal and that the building and collections are the property of the City, managed under agreements with the Wichita Art Museum, Inc. as agent of the City. Stated what is especially important is the unique arrangement for the celebrated Murdock Trust collection, which is at the Museum on the condition that the City properly house and care for it, which the City has been doing since the 1930's. Stated that the Murdock collection is the cornerstone of the Museum and is internationally recognized. Stated that City legal staff is well aware of the documentation for these obligations. Stated that not going forward with the project may jeopardize the Museum's accreditation with the American Association of Museums and in order to be accredited, a museum must demonstrate a commitment to collections care and protect the collections from loss or potential risks. Stated that an accredited museum will take pro-active measures to mitigate the effects of water, fire, climate fluctuations and environmental conditions that could cause damage to objects or hamper their long-term preservation. Stated that they believe this to be the right course of action and that time is of the essence and the project must go forward for the good of the collection and the citizens of Wichita.

Motion--
--carried

Fearey moved that the City Council approve the contract amendment, the use of the CIP Planned Savings Project and authorize the necessary signatures for Option 2. Motion carried 6 to 0, (Skelton absent).

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RESOLUTION

RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA, SUPPORTING WICHITA STATE UNIVERSITY, THE KANSAS BOARD OF REGENTS AND THE UNIVERSITY PRESIDENT, REGARDING WHETHER THE UNIVERSITY SHOULD HAVE A FOOTBALL PROGRAM.
(CONTINUED FROM JULY 11, 2006)

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Report No. 06-0791

At the City Council meeting of July 11, 2006, the City Council directed that the City Attorney draft a resolution that the City Council takes a non-interference approach regarding whether Wichita State University should have a football program. The City Attorney was also directed to draft language for the resolution to reflect five separate concepts.

The attached Resolution reflects the direction of the City Council as to the policy decision and five concepts approved by the City Council regarding the Wichita State University football program issue.

The Resolution has been drafted and approved as to form by the Law Department.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to speak on this issue and no one appeared.

Mayor Mayans

Mayor Mayans asked the Director of Law if he had ever seen a resolution that would curtail the Council Member's freedom of speech.

Gary Rebenstorf

Director of Law stated that he cannot recall this type of issue has ever come up before and that it is an issue that is up to the Council to decide what the language of the resolution would be.

Mayor Mayans

Mayor Mayans stated that regarding the resolution, he agrees with the section dealing with the Council's relationship with the University and that it is not the Council's job to tell the president of the university what his role or job is but it is the Council's job to look after the City of Wichita and to help in any way the president of the university or any head of a company to see the importance of a relationship between the City and the entity. Stated that they are here in America we have freedom of speech and that we should be tolerant of each other's views and should be able to disagree on issues in a respectful way. Stated that the Council should never curtail the freedom of speech of any member on this body. Stated that we can disagree but that it should be done in a respectful way and should be tolerant of other's views and should not try to legally circumvent the constitution of the United States of America and tell someone that they cannot speak on certain issues. Stated that if this is done today, then what the Council is saying that if someone on the Council speaks about corruption in government, do we pass a resolution to prevent that person from speaking on this, etc. Stated that this resolution is not just about the members but it also says that no member of the governing body of the City of Wichita, or any member of the organization of the City of Wichita, is not authorized to speak on the City Council's behalf. Asked how far do we go when we go down this road. Stated that he thinks this is a terrible idea and is shameful and that disagreement among this body is good for people to have differences of opinions and that is why we have a diverse Council. Stated that diversity is good and it is good to hear from everybody in the community but when we do those things we need to do it in a respectful matter and not in the newspaper or publicly and if you do it publicly do it in a respectful way and not in a personal manner and talk about the facts and not about allegations or substantiated comments. Stated the people of Wichita elected the Council to do a job and speak for them and did not elect us to curtail the freedom of speech of other members and that is outrageous and anti-American. Stated that we have people in Iraq fighting for the same freedom that today we are trying to deny in this Council. Stated what we need to have is not this resolution but more open government, which is what the people want and what they expect and is what they elected us to do.

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- Council Member Fearey Council Member Fearey read aloud a portion of the resolution that speaks about the Council not speaking out on the City Council's behalf and asked if they can still speak out on anything but cannot say that they are here today speaking on behalf of the Wichita City Council.
- Gary Rebenstorf Director of Law stated that is the way that he reads it and that it says that no one is authorized to speak on behalf of the Council and does not think that it curtails anyone from saying anything else.
- Council Member Fearey Council Member Fearey read aloud another portion of the resolution that says the Governing Body of the City of Wichita, Kansas hereby expresses support for the president of the university and the Kansas Board of Regents for their budget allocations of the Wichita State University mill levy and asked if we do not do that every year when we pass the budget.
- George Kolb City Manager stated that the mill levy is not a part of the city budget and is a levy that is done by the county on behalf of the city and the county. Stated that they come in and meet with us each year as we are doing the budget process on how they are going to spend that money and they listen to the Council's comments that they may have with respect to their proposed budget and then present it to us. Stated that the city does not take any official action as it relates to it.
- Mayor Mayans Mayor Mayans asked Kelly Carpenter if she has a record of how the contingency account is spent at Wichita State University.
- Kelly Carpenter Director of Finance stated no.
- Mayor Mayans Mayor Mayans stated that he has no idea how it is the Council knows how this money is being spent if the Finance Department does not know because the university does not provide that information. Stated that this is another flaw in this matter. Stated the Kansas Board of Regents have nothing to do with saying what happens with football because they do not fund sports, they fund education.
- Council Member Brewer Council Member Brewer stated that the Kansas Board of Regents actually oversees the university and the football programs and the athletic programs at the university fall under the university themselves. Stated that the Kansas Board of Regents is just a higher governing body very similar to the Governor, Mayor and the City Council. Stated that from the perspective of freedom of speech, each Council Member is entitled to be able to speak our own opinion and to have our own voice but must bear in mind that when you speak, that you recognize and make it very clear that you are speaking on your opinion only and not paraphrasing it in a way to present it that it is your opinion but you make it appear that it is also the rest of the Council's opinion. Stated that is the concern and where the problem comes in and that in this particular case the Council has made it very clear their stance on the issue but it was still presented to the public and community that this was the stance of the Council, which it was not. Stated that individuals being able to speak on their own are every citizen's right but this is not about freedom of speech. Stated if we do not do this the where do we go from here and he foresees that eventually if we do not do something today, we will get to a point where we will start telling major corporations this is what you are going to do, etc. Stated that he feels that there needs to be some barriers because in his opinion if there were a lot of discipline then we would not be having this conversation today.
- Mayor Mayans Mayor Mayans stated that we need bridges of friendship and not barriers between people. Stated that the resolution that we have here today is about creating barriers to communication and we do not need those barriers of communication and need better communication among ourselves and if Council Member Brewer disagreed with him all he had to do was to come and visit with him. Stated that we do not need to pass resolutions like this because what happens is, what is next. Stated that he gets paid and the people of this City elected him to speak on their behalf and it is not fair for one Council Member to stop other members on this Council from speaking.

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(Council Member Fearey momentarily absent)

Council Member Brewer Council Member Brewer stated that the people of this City elected everyone that has ever sat on this bench and each and every person is going to represent the citizens of this City and do the very best job that they can possibly do and each person has the utmost respect for everyone. Stated that the communication was done and that the Mayor was told that the Council was not interested and that this is what we needed to do and you chose to go out there and make the decision that you did. Asked if this is about being open and allowing everyone to be able to voice their opinion, yes it is and all of the Council knows and have made it very clear when speaking before individuals, if it is not of the opinion of the Council or the views or wish of the Council, they make it clear that it is their opinion only. Stated that if we do not have something to provide the Council with a clear understanding as to what we are going to be or not going to be doing, and then we will continue to have these types of things happen.

Council Member Martz Council Member Martz stated that he agrees with Council Member Brewer and is supportive of the resolution and does not feel in any way that he is being restricted or that anyone else is being restricted on what they can or cannot say. Stated that he served over four years in the U.S. Navy and his duty to help defend the right of the people of the U.S. to be able to have freedom of speech and will always defend that right and feels that it is very important that we always maintain that. Stated that he does know that there is a City ordinance that says that the Mayor is to be a voice of the Council and whenever you are speaking and wearing a shirt that says City of Wichita and standing in front of the logo of the City and making statements that is contrary to what the other Council Members have said, he thinks is wrong and if the Mayor wants it must be clarified that if the Council has said that they do not want to take a particular position, the Mayor is not to go contrary to that. Stated that there should be nothing to imply that you are speaking for the Council especially if it is contrary to what the rest of the Council is saying. Stated that he feels this is one way to stop that particular issue.

Council Member Schlapp Council Member Schlapp stated that this resolution does not in any way impugn anyone's ability to have freedom of speech and thinks it states it very clearly.

Council Member Gray Council Member Gray stated that he going to respectfully disagree with the position the Mayor has made. Stated that the he believes that the Mayor should have the ability to defend himself but has odds with this particular situation is in the Mayor's efforts to frame this as such that it is a freedom of speech issue. Stated that the last time he checked no local government or state government can supersede the authority of the United States Constitution, especially that of the first amendment and any time it has been attempted it has been challenged and defeated outright. Stated that to mention the soldiers in Iraq, is very personal to him whereas he has a little brother who was over there as a United States Marine, having to kick in doors and kill people and get shot out by machine guns and tanks and luckily made it out of Iraq. Stated that at the same time he had a cousin over there who was hit by an IED explosive device and nearly died and to say that he does not respect the troops in Iraq and their efforts to maintain amongst those in the United States and to spread freedom throughout the world is a personal assault on him, knowing the personal sacrifices that he has had within his own family and the losses that he has nearly had to face. State that he takes issue with the Mayor trying to frame this as "Paul Gray and the City Council" are trying to limit the free speech ability of the Mayor, when this resolution specifically outlines the City Council's behalf and does not say on any persons individual behalf and that is why he supports this, because he does not want to take the right away from any individual to be able to speak or follow their constitutional given abilities and freedoms. Stated that this is not a freedom of speech issue and would appreciate it if the Mayor would not continue to try and frame it in such a way.

(Council Member Schlapp momentarily absent)

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- Mayor Mayans Mayor Mayans stated that this resolution is not about the Mayor but about the entire Council and every member on the Council is being censored. Stated that it is not a personal thing and who makes the determination of the freedom of speech is the people. Stated that he feels that this is a freedom of speech issue because the Council is hired by the people to speak on their behalf and have for the last three years fought very hard for the Council to have more open and honest debates. Stated that this resolution is contrary to that. Stated that the Council has a difference in philosophy and that is okay between the Mayor who wants an open and honest government and others who may want to do it a little differently, which is a clear difference and this resolution does not help that. Stated that there is the issue of leadership and that some of the Council want to define leadership as consensus, but leadership is action and direction and is not consensus. Stated that consensus may be a part of some leadership initiative but is not a lack of leadership. Stated that we as a Council have done a lot of good things and have come a long ways in the last three years, which was to help trim the budget, increase our reserves, job development, affordable air fares, an agreement to build an arena and got the WaterWalk and the river corridor improvements moving. Stated that we have done a lot of good things and should not be ashamed of anything but we are coming close to an election year so there are other dynamics. Stated that we need to wait until the election year and do not have the time right now and are in budget deliberation, which is very important to the State of Kansas and the City of Wichita and we need to focus on that and there will be plenty of time for campaigning and politicking. Stated that the people want the Council to work together for the betterment of Wichita and we need to act like adults and talk to each other in a respectful manner and begged the Council to work together as one unit for the same cause.
- Council Member Fearey Council Member Fearey stated that she feels that this debate has gone way beyond football and if this Council wants to say that we all need to be very careful anytime we are speaking in front of a group or the press and to identify that we are only speaking on our behalf and to make perfectly clear that we are not speaking on the Council's behalf. Stated that she feels that the Council has just made the story for tonight's news and tomorrow's newspaper and that we have a huge agenda today and a lot of important issues and none of those things are going to probably get the coverage tomorrow that they deserve because we are having this huge debate and she personally does not think that is fair to the people and cannot say that she is not going to vote on this because she can only do that if she has a conflict of interest. Stated that she does not want to vote yes or no on this issue and feels caught in the middle and does want the Council to get along. Stated that we will not always agree on things but thinks it is their job to come together as get on with the business that is on the agenda today and every week and if we want to do a policy, she feels that is fine.
- Council Member Brewer Council Member Brewer stated that he agrees that we need to move on and that we have other issues that need to be addressed but there are a lot of things that are going on and that he recognizes that what is said up here and once you walk off this bench and go behind four walls, he knows that there are other things that go on. Stated that the Council needs to practice what we are preaching and not just talk about it and then go do something else.
- Council Member Gray Council Member Gray stated that he believes that he and the Mayor want to work together and that the whole Council would like to work together and move forward and feels that we are all ready to do that. Stated that he is ready to move forward and past all of the problems that they have had because the Council does have to move the city forward and that there will be time for campaigning and politics.
- Mayor Mayans Mayor Mayans explained to Mr. Fred Marrs that he was not present with he asked if there was anyone from the audience that wanted to speak and already closed the public hearing. Asked if the Council would mind allowing Mr. Marrs to speak for a couple of minutes.
- Motion--
--carried Gray moved to reopen the public hearing to allow Mr. Marrs to speak for two minutes. Motion carried 6 to 0.

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Fred Marrs

Mr. Marrs stated that he believes that the resolution was improperly manufactured and is fundamentally flawed and is and ought to be legally of no force or affect. Stated that the resolution purports to confer jurisdiction where none exists. Stated that it talks about the Kansas Board of Regents, which has no subject matter jurisdiction over athletics for any university. Stated that admittedly President Beggs is a sole individual who has ruled by fiat authority to bring back football or not but the legal principle is if he gives you 6.5 million dollars as a gift and say that he would like to see it spent on certain items, your legal response is that you will agree to take the money and spend it like it was designated or in the alternative you can say that you do not want the money and that is President Beggs right. Stated that WSU has 1,683 scholarships on the mill levy and are spending \$2, 272,236.00 on those scholarships and for 20 years have lost students and have a loss of student problem and if we want to add 85 more football scholarships and provide some monies where the universities can solve that problem, then it is up to the president to say yes or no and if does not want to do it we can make a decision with our monies as to whether we give that portion to them or not. Stated that there is no legal authority to bind any subsequent City Council or legal authority to bind and stifle the Mayor from speaking on behalf of 240,000 citizens that he is elected to represent and when a majority can stifle the minority, we are left with a dictatorship of the majority. Stated if you do not like what the other person says then you just say that he cannot say it and the process ought to be that we have an open public debate and that you come here and put your resolutions at the Council Meetings where you have an open public meeting and not manufacture them prior to that time. Stated that the resolution purports to confer budget request rights on the Board of Regents and the Board of Regents has a statutory oversight right over the mill levy and can only accept or deny the mill levy and it has a conflict of interest with respect to requesting any amounts of money on the budget because it has the obligation to fund capital improvements for example at out of state funds and no one on this Council can tell him how much money in the mill levy is going presently to pay for the Marcus Welcoming Center and nobody can say how much money is being paid off the mill levy to debt service and the 10 million dollars worth of bonds on the new lab building but he understands that there is monies in the mill levy that is being used for that purpose. Stated that this Council cannot preclude any future Council from determining if they want to fund a particular issue to solve a particular problem like 20 years worth of loss of students. Stated that he believes that the resolution is fundamentally flawed and should not be enacted and would ask the Council to withdraw it and if you do not withdraw that you at least not enact it.

Council Member Fearey

Council Member Fearey stated that she is going to vote no on this issue and thinks that there is a bigger issue here and does not think that this addresses it and thinks that the Council needs to sit down and decide who can speak, what we can say, etc.

Motion--

--carried

Brewer moved that the Resolution be adopted and the necessary signatures authorized.
Motion carried 4 to 2, (Nays-Fearey and Mayans), (Skelton absent).

RESOLUTION NO. 06-413

A Resolution of the governing body of the City of Wichita supporting Wichita State University, The Kansas Board of Regents and the university president regarding whether the university should have a football program, presented. Brewer moved that the Resolution be adopted. Motion carried 4 to 2, (Nays-Fearey and Mayans), (Skelton absent).

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TENNIS CENTER

RALPH WULZ RIVERSIDE TENNIS CENTER IMPROVEMENTS. (DISTRICT VI)

Doug Kupper

Director of Parks and Recreation reviewed the item.

Agenda Report No. 06-0792

The Ralph Wulz Riverside Tennis Center is a premier tennis center and has hosted numerous local and regional tennis events. The City Council has authorized previous court renovations, improvements to the pro shop, installation of signage and landscaping, and new bleachers.

Additionally, Capital Improvement Program (CIP) funds over the past several years has allowed for the replacement of numerous deteriorating asphalt tennis courts with post-tension courts. The facility is in need of replacing four sub-standard courts with post-tension concrete, new fencing, and lighting.

The Park and Recreation Department staff will seek citizen input on the renovation design concepts with the Riverside Citizen Association, the District Advisory Board (DAB), and the Park Board members for their comments and feedback on this capital improvement project.

The vision for the tennis center is to create year-round tennis opportunities for the citizens of Wichita. Staff seeks authorization for replacement of the four courts with three post-tension concrete courts and authorization for a design/build agreement to enclose the three courts with an inflatable dome. The 2007 Park CIP includes funding for tennis court repairs and replacements. The City has also been awarded an EDI-Special Project HUD Grant No. B-01-SP-KS-0211 of \$429,054 for recreation projects and this grant funding has to be obligated and committed by September 30, 2006.

The 2007 Park CIP includes \$220,000 for athletic court repair, removal and/or construction. The funding source is general obligation bonds. Additionally, staff seeks approval to also use the HUD grant of \$429,054.

This project will impact the Quality of Life Goal by providing citizens a quality tennis facility. The improved courts and enclosure will provide on-going recreational and competitive activities, leagues, and tournament play for Wichita citizens and visitors to enjoy.

The Law Department has approved the bonding resolution as to form.

Mayor Mayans

Mayor Mayans asked the City Manager if he received a letter from the Mo Connelly Foundation asking him to return the HUD Grant to Todd Tiahart's office to be used to help the homeless shelters, specifically Harbor House and Anthony Family Shelter.

George Kolb

City Manager stated yes and it gave them permission to make that request to see if it could be done. Stated that they made the request and there was no problem with Congressman Tiahart's office but when they went to HUD to ask them, there said they had to spend it as it originally had been intended for the award. Stated that he does not have a written response but their representative in the HUD office who handles the grants said that they could not use it for that purpose.

Mayor Mayans

Mayor Mayans stated that he is a little uneasy that there has been a change of heart now on this issue. Stated that according to this agenda report, staff is taking action first and then seeking the citizen's input later and asked why are we doing it this way.

Doug Kupper

Director of Parks and Recreation explained that under normal circumstances he comes before the Council and initiates project and get the Council's authorization to do those projects before he goes out and seek citizens input on what it looks like, how it is laid out and things along those lines.

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- Mayor Mayans Mayor Mayans stated that the original contract was never envisioned to make this a year around tennis court and thinks there are issues with this HUD grant that may come back to haunt us, especially when the Mo Connelly Foundation would have been very much involved in this and had an intention of perhaps going to the homeless, which the City and County Managers have been working so hard to put together to put together a homeless initiative and this money would be perhaps used there. Stated that he feels that the tennis courts need to revamp but to go from four courts to three courts is not expanding the area and if we want to spend the money we need to spend it and make it the most beautiful facility that we can make it. Stated that he feels it would be ugly to place a bubble there and is not in favor of that.
- Council Member Fearey Council Member Fearey stated that it was stated that there is no public input because it is a CIP project and you initiate them first, but asked if the park board reviews all of the CIP projects.
- Doug Kupper Director of Parks and Recreation explained that when the City goes down the path of renewing the CIP plan and then approving the CIP projects for the following two years, they get the park board involved in helping guide them through that bringing in citizens comments and they have it on the front end and as the CIP is established, then the initiate the projects at they come down the pipeline as it was laid out by the Council's approval.
- Council Member Fearey Council Member Fearey stated that it seems to her that is public input on the front end because our Park Board members are appointed and those are all public meetings and this project is not in the CIP. Stated that she thinks that there was a time for citizen input through the park board but that has not happened and that she is going to request for deferral on this item until we can have citizen input on this project.
- Council Member Schlapp Council Member Schlapp she and others were working very hard to get this HUD grant used for the homeless and she supported it then and supports it today and only wished that it could have happened that way. Stated that unfortunately HUD responded twice and said that we could not do that. Stated that this HUD grant will no longer be ours to talk about next month. Stated that she thinks when the government wants to hand us \$429,000.00 we should look at it and say "thank you" and proceed and if this HUD grant were used on this particular project and the cost become too great as the Mayor said, we would be fixing courts that need to be fixed, which is a benefit and if we were to get this inflatable dome as a gift from the federal government and found out that the cost of running that facility were too great to continue or the benefit of that cost was not beneficial to the citizens, then we could take the dome down and have lost absolutely nothing and the dome would be ours, which would be a financial benefit to the City.
- (Council Member Gray momentarily absent)
- Mayor Mayans Mayor Mayans stated that if Riverside is a city project it should go before all of the DABs and if it is not a city project and is just District VI, he thinks he is going to agree with Council Member Fearey to defer because if it is in her district then he thinks she should have that prerogative and if it is the city at large, then we should be going to all of the DABs. Stated that he would be in favor of using all of the money and add three or four more courts or enhance the park setting and the amenities for the big tournaments that we can draw there.
- Council Member Martz Council Member Martz stated that he is concerned with the time limit on this and the fact that we could lose the grant if we do not act fast enough to get something done. Stated that he would like to take action on this today and can always stop the process later down the road and would like to see the project continue on and not to delay anything. Stated that we have work that we definitely need to have done and he is worried that we have a \$430,000.00 federal grant that we would just lose if we do not do this. Stated that he is in favor of moving ahead and thinks that this is an all city project and not just a district project and as far as seeking citizens input on designs, he has no problem with taking that to the DABs and because of the time factor he will introduce that as an off-agenda item at his DAB meeting next Monday.

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- George Kolb City Manager stated that earlier the question was asked about the status of the HUD grant and that he just found out that the grant request to make the change went to HUD's legal counsel and they ruled that we could not use it for other than the original purpose of the grant.
- Council Member Fearey Council Member Fearey stated that she is curious to know how this got to be at the 11th hour and that it seems to her that it is one more time when we had this for five years and now all of a sudden we have to do this and cannot have public input because there is not enough time. Stated that this is ridiculous and that somebody must have know that this was happening and thinks that this does a disservice to the citizens.
- Doug Kupper Director of Parks and Recreation explained that we have a two-fold situation, on this particular funding and the beginning of July they were under the impression that they had until September 2008 to spend the money and it was not until July 12th or 13th of this year that HUD contacted their local office and spoke to Marty Miller and said that they had made a mistake and that they only had until September 2006 and there is nothing that can be done. Stated that the other thing is that it took awhile for them to try and convert that money so it could be used for those shelters, which took some of time in the interim from the time that they stopped working towards the indoor tennis facility to where they are at today.
- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.
- Laura Norman Ms. Norman stated that she is a board member for the Maureen Connelly Brinker Tennis Foundation and asked if the HUD grant that is being sited as the funding source for this project is the same HUD grant that was originally awarded to the Mo Connelly Foundation for the permanent structure. Asked if it has been reissued or redirected.
- George Kolb City Manager stated that it is the same grant.
- Laura Norman Ms. Norman asked if the Mo Connelly Foundation in any way being consulted or involved in or still named as a party to the project or the grant.
- George Kolb City Manager stated that he is not sure what their involvement is in this but it is his understanding that the original intent was for it to go into that tennis facility.
- Laura Norman Ms. Norman stated that she would like to make the Council aware that the Mo Connelly Foundation Board has no knowledge of the plans to erect an inflatable dome or that this HUD grant is even still floating out there and read aloud an excerpt of the recent board meeting minutes from February 20, 2006. Stated that they are not aware of it and have no knowledge or no involvement and are quite perplexed and does not know how this has happened especially if their name actually appears on the HUD grant.
- Council Member Schlapp Council Member Schlapp stated that she made Mary Ellen Randall aware of this and had talked to several different people and the fact is is that the City was going to administer this anyway and that Mo Connelly was never going to administer this. Stated that we were the holding place for the grant but were never the administrator and the City had been given permission to become the administrator. Stated that she did make the president of the organization aware and did speak with people that she came in contact with and let them know that was the case. Stated that as a member of the board, she has as much authority as Ms. Norman has and that they did not every had the ability to administer that grant and have gone through the correct process and does not feel that she had any obligation to go to a meeting and explain anything and if there are still questions, she would be happy to do that.
- Laura Norman Ms. Norman stated that she was told in a phone conversation yesterday that she had no knowledge of this and asked what name or organization was the HUD grant applied for under and awarded to.
- George Kolb City Manager stated that as he reads the e-mail, HUD 1044 states that the City of Wichita will partner with the MCB Foundation and use this grant for the revitalization of the downtown community recreation center. Stated that the City of Wichita did not apply for the grant.

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- Laura Norman Ms. Norman stated that Council Member Schlapp made the application without permission and on behalf of their foundation without their knowledge or approval. Stated that it is not that they do not support the project and is not speaking for Mo Connelly and objects to the way that this was handled.
- (Council Member Fearey momentarily absent)
- Janet Miller Ms. Miller stated that she resides at 1102 Jefferson and is here as an individual and not as the president of the park board because the park board has not heard about this issue since they discussed the indoor tennis center back in November 2004. Asked why in such a short period of time would the City Council actually vote for a contract to design and build this project. Stated that before the Council does this she would like to know why the Council would be approving a capital park project that is not in the CIP and asked what due diligence has staff or Council has done to determine the feasibility of this project and will fees cover it, what will the impact be on the surrounding natural environment, what is the performance and reliability of a dome and has any research been done on that yet, what will the annual heating and cooling cost be and from what budget will those costs be paid., how many new staff will be required to operate a year round facility and what budget will those costs be paid, what will the annual maintenance and upkeep be since the park budget is under funded at the present point and time, will be have a greater trash problem then we have today, will we be replacing fewer trees and what is it will we be giving up assuming that we do not have additional funds. Stated that she has been told that the precipitating event was this HUD mistake and asked why has HUD's mistake now become our emergency. Asked the Council to consider deferring this until the Council can look at some due diligence before voting on a contract or amend your vote to say that you will explore the idea with the intent to then consider entering into a contract when you have received some additional information.
- Council Member Fearey Council Member Fearey stated that she would like to have the input of at least the park board in order to move forward with this but will not be at the August 8th Council Meeting but that maybe the Council could go ahead next week as long as we have had some kind of further input on what all project are out there in place of one that she is not hearing is out there.
- Janet Miller Ms. Miller stated that she thinks that the park board would probably appreciate the opportunity to hear this issue but that she would like to have answers to the questions before voting on this and have some due diligence done and an explanation.
- M.S. Mitchell Mr. Mitchell stated that he resides at 1215 Forrest and has been involved with the Ralph Wulz Tennis Center for a long time and in his opinion he would not be pleased with what the Council is proposing to do today. Stated that he thinks the dome would be ugly and not fit what Riverside Tennis Center is now as an excellent place to play tennis in Kansas. Asked the Council if there is no opportunity for deferral to reword the action line to take out the word "design build agreement for an inflatable dome" and that he does not mind money being spent on Ralph Wulz Tennis Center from any source that the City can get and is sure that there are people in this area that can find viable projects to use that money better than a dome.
- Motion-- Fearey moved to defer item 21 until August 15, 2006.
- Council Member Schlapp Council Member Schlapp asked if there is any way to defer this to the August 8th Council Meeting because she is concerned about the timing.
- Amended Motion-- Fearey moved to amend her motion and defer this item until the August 8, 2006 meeting.
- Council Member Martz Council Member Martz stated that he is normally supportive of a deferral but his concern is the potential of losing the grant and feels like this is a use it or lose it situation and cannot support the deferral.
- carried Motion carried 5 to 1, (Nay-Martz and Skelton absent).

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ICE CENTER

MANAGEMENT SERVICES FOR WICHITA ICE CENTER. (DISTRICT IV)

Doug Kupper

Director of Parks and Recreation reviewed the item.

(Mayor Mayans momentarily absent and Vice Mayor Gray in the chair)

Agenda Report No.06-0793

The Wichita Ice Center was built in 1996 to fill the need for an ice rink in the Wichita area. The City was petitioned by citizens to construct a rink, stating the need was felt community wide. Since its inception, the facility has provided skating lessons, figure skating, hockey (youth and adult), leisure skating and many other ice related sports and recreation activities.

The City of Wichita severed its management agreement with the original developer, Canlan Ice Sports, in July 2005 and initiated a Request for Proposals for management services for the Ice Center. The facility has been under the supervision of the Department of Park and Recreation since August 2005.

The City Council, on January 10, 2006 selected Rink Management Services Corporation (RMSC) as the preferred management company and authorized staff to negotiate a contract with this firm. RMSC is the largest operator of ice skating facilities in North America, with managing over 20 facilities. RMSC has a strong history of community involvement and working with groups and organizations to build support and increase participation.

The contract negotiated with RMSC will allow the City to gain from the experience and expertise available from an industry leader, while preserving its option to operate the Ice Center directly in the future. To this end, the contract with Rink Management calls for the sharing with City staff of detailed marketing plans, second floor utilization plans, and capital improvement plans not required of Canlan. This contract also improves on the Canlan agreement by setting an initial term limited to three years, a two year requirement to reach sustained profitability, a stop-loss provision that allows termination if the financial safety net is breached, a finite annual management fee, and incentive pay based on weighted factors of cost recovery, customer satisfaction and attendance growth. Incentive pay will only be paid from net profit. The contract is focused to deliver both improved return on financial investment and perceived enhancement to quality of life for the public.

Rink Management Services Corporation has proposed the contract calls for a management fee of \$50,000 annually, paid in monthly installments, with an additional potential incentive fees of up to \$20,000 from net profits should performance goals (as defined in the agreement) be met. The management fee is for services provided by the company to manage the facility and does not include personnel costs. Those costs are reflected in the operating budget. The source of funding is the Ice Center budget. The contract sets up an initial financial safety net of \$100,000 funded from current operation reserves.

This agreement will impact the Quality of Life Goal. In providing high quality, diverse, ice related activities and sports; the facility will offer to the citizens an opportunity to participate in activities beyond the traditional sports of baseball/softball, football and basketball.

The Law Department negotiated the agreement has participated in negotiations with RMSC and has approved the contract as to form.

Vice-Mayor Gray

Vice-Mayor Gray inquired whether anyone wished to be heard and no one appeared.

Doug Kupper

Director of Parks and Recreation stated that there is correction to the recommended action and that it need to include "and budget adjustment required to accommodate the contract".

Motion--
--carried

Gray moved that the contract and the budget adjustment required to accommodate the contract and the necessary signatures authorized. Motion carried 5 to 0, (Mayans and Skelton absent).

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CUP2006-24

CUP2006-24-ASSOCIATED WITH ZON2006-25-CREATE DP-299 NORTHGATE COMMERCIAL PARK COMMUNITY UNIT PLAN; ZONE CHANGE TO LIMITED COMMERCIAL. GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF MERIDIAN AND 53RD STREET NORTH. (DISTRICT VI) (DEFERRED JULY 18, 2006)

John Schlegel

Planning Director reviewed the item.

(Council Member Martz momentarily absent)

Agenda Report No. 06-0794

MAPC Recommendations: Approve, subject to conditions (10-1).

MAPD Staff Recommendations: Approve, subject to conditions.

DAB Recommendations: Deny (5-3-1).

The applicant proposes to create a commercial Community Unit Plan (CUP) containing approximately 79.60 net acres located north and west of the intersection of Meridian and 53rd Street North. As part of the application, a zone change from "SF-20" Single-family Residential to "LC" Limited Commercial on approximately 77.4 acres is also requested. A 2.2-acre tract located nearest the intersection is already zoned "LC" and was platted in 1983 as the Maize State Bank Addition.

The site includes 27 acres that was previously denied a similar application by the City Council in 2005. The "Unified Zoning Code" prohibits the re-filing of a similar application within one year unless there has been some change in the code, change in the application area or if the application is significantly different from the original request. The Metropolitan Area Planning Commission (MAPC) reviewed the current application, and determined that this request is significantly different from the previous request.

The proposed CUP would allow most uses permitted by-right in the "LC" district. Parcels 1, 2 and 3 contain 25.88 acres. Proposed prohibited uses for Parcels 1, 2 and 3 are: night club in the city, sexually oriented business, correctional placement residences, safety service, pawn shop, agricultural sales and service, commercial wireless communication facility, theatre and tavern and drinking establishment. Parcel 1 is 23.04 acres in size while Parcels 2 and 3 are 1.42 acres apiece. These three parcels would allow a total of 338,151 square feet of maximum gross floor area. Specific signage is proposed for these three parcels: Parcel 1 - Three ground signs are permitted, two of which are monument style, up to 30 feet in height and up to 148.33 square feet each. A TLE sign is also permitted, not exceeding 20 feet in height and 32 square feet in size. Building signage of up to 666.24 square feet is proposed. Parcel 2 and 3 signage is not to exceed 20 feet in height and 150 square feet in area, subject to the City's sign code. All ground signage is to be spaced 150 feet apart. Three access points from Meridian and one from 53rd Street are proposed to Parcel 1. Parcels 2 and 3 would each have one access point from 53rd Street.

Proposed prohibited uses for Parcels 4-15 include: adult entertainment establishments, The applicant proposes to create a commercial Community Unit Plan (CUP) containing approximately 79.60 net acres located north and west of the intersection of Meridian and 53rd Street North. As part of the application, a zone change from "SF-20" Single-family Residential to "LC" Limited Commercial on approximately 77.4 acres is also requested. A 2.2-acre tract located nearest the intersection is already zoned "LC" and was platted in 1983 as the Maize State Bank Addition.

A neighborhood meeting was held at the Law Enforcement Training Center. Over 300 people attended. The applicants provided an overview of their proposal, and citizens were given an opportunity to ask questions and make comments. Comments supporting and opposing the request were made. In general, those in opposition questioned the scale of the project as being too large; the impact traffic would have on existing residential areas; big box uses would drive out locally owned businesses and concern regarding drainage and groundwater pollution. Comments in favor of the project noted that the area did not have any nearby shopping areas that offered a variety of uses like the one proposed, and it would provide jobs.

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At the District VI Advisory Board meeting held June 5, 2006, the board voted (5-3-1) to deny the request based upon traffic and environmental concerns. Five citizens spoke in opposition. See the attached memorandum detailing comments made at the DAB VI meeting. One of the issues affecting how one DAB member voted dealt with traffic improvements, particularly the number of access points. The applicants agreed to meet with the DAB member and discuss his traffic concerns.

At the MAPC meeting held June 15, 2006, they voted (10-1) to approve the request subject to staff's findings and recommendations. Three citizens were present to speak on the proposal. Two citizens spoke in opposition citing drainage, scale of the project, traffic and lighting concerns. During the meeting the applicant offered to install raised medial(s) in the middle of 53rd Street instead of having the ones that can be driven over, and when traffic is warranted, R & R Reality will pay for a traffic signal at Keywest and Meridian. These proposals were aimed at addressing the DAB member's traffic concerns. The MAPC recommendation did not include these requirements. If it is the Council's desire to approve this request, and to include these two requirements as one of the conditions of approval, the Council will need to add them to the conditions of approval.

The department has not received any formal protest letters.

On July 18, 2006, the Wichita City Council considered this request, and voted 4-3 to defer action on the application for two weeks (to the August 1, 2006 meeting).

The MAPC recommendation is that the application be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2006-25) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-299), subject to the following conditions:
 - a. Guarantee signalization at the 54th Street and Meridian intersection.
 - b. Guarantee a southbound right-turn lane and a fifth lane on Meridian from 54th to 53rd to allow left-turns.
 - c. Guarantee the relocation of the existing signal to accommodate street improvements at the 53rd and Meridian intersection.
 - d. Dedicate additional right-of-way along 53rd Street sufficient to meet the 60-foot half-street standard.
 - e. Guarantee future signalization at major openings on 53rd Street when warrants are met.
 - f. Guarantee a fifth lane along 53rd Street from driveway opening number three east to Meridian.
 - g. Guarantee dual left-turn lanes on the west and south legs of the intersection of 53rd and Meridian, and provide separate right-turn lanes on all approaches.
 - h. Provide cross lot circulation between all abutting parcels except Parcels 1, 13 and 14, and connect individual parcels to internal circulation drives.
 - i. The site shall be developed in substantial conformance to the approved community unit plan's site plan, general provisions and individual parcel standards.
 - j. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 - k. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 - l. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds. Failure to complete the plat within one year after approval by the governing body will result in the case being denied and closed, unless a platting extension has been granted.
 - m. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-299) includes special conditions for development on this property.

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- n. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.
- o. Delete reference to "group homes" in general provisions for lots 4-15, item 18, and add the word "plant" after "asphalt/concrete". On item 13 A the reference to "south" should be "north."

Promote Economic Vitality and Affordable Living.

The ordinance has been reviewed and approved as to form by the Law Department.

John Schlegel

Planning Director stated that he and the developers had an opportunity to meet this morning to discuss this and have agreed that the following conditions be added to the approval of CUP2006-24/ZON2006-25:

1. Guarantee stand-up curbed raised medians in 53rd Street North for control of the four right-in/right-out openings.
2. Align the opening for Parcel 2 on 53rd Street North with the opening for the property to the south (DP-289 Johnson Commercial CUP), to be determined at platting of both parcels and in conformance with the access management policy.
3. Parcel 3 shall have access to the internal drive to the north, to the internal drive to the west except within 150 feet of the intersection of the internal drive with 53rd Street North and shall have cross-lot circulation with Parcel 2.
4. Four openings are allowed along Meridian, with two full movement and two right-in/right-out openings. Guarantee channelization within driveway for ensuring right-turn only movements.
5. Guarantee installation of sidewalk on Meridian and 53rd Street North for entire frontage of property.
6. Guarantee closure of 54th Street North at Meridian when warranted, subject to review of the proposed closure by the neighborhood in consultation with the Traffic Engineer prior to closure.
7. Guarantee signalization of intersection at Meridian and Keywest Street when warranted.
8. **John Schlegel stated that the applicant would not like item 8 to be included as a part of an approval motion because they are in the process of discussing with Wal-Mart the possibility of moving the service station from where it was originally proposed in that southeast corner of that site to else where on that site. They would like the flexibility of not having that as a condition prohibiting the fuel station on that location.**
9. Provide a sidewalk with a minimum width of six feet with bike racks, along the front of all buildings. Provide bike racks through the rest of the development.
10. Guarantee half of the installation and maintenance by separate instrument of the landscaping in the medians of 53rd Street North.
11. Install and maintain landscaping on Parcels 4-12 in the same ratio of plantings as established for parcels 1-3 excluding the bermed area fronting Meridian.
12. Install and maintain landscaping on Parcels 1-3 in conformance of the City of Wichita Landscape Ordinance and in substantial conformance with the landscape plan submitted by the applicant on April 18, 2006.
13. Detention ponds and drainage ways on site and on the adjoining property to the north connected to this development shall conform to all recommended ground water pollution standards in place at the time when they are developed. The detention ponds and drainage ways shall use natural filtration systems with biowales and bank plantings to serve as natural cleansing systems for runoff from the development and shall be reviewed and approved by the Storm Water Engineer.
14. Guarantee installation and maintenance by separate instrument of walking paths with all-weather surfacing such as concrete, asphalt, asphaltic concrete or rubber sidewalks around the detention ponds and drainage ways in the reserve area of the subdivision plat to the north and with a gate or opening for pedestrian/bicycle access linking the eastern edge of the reserve area of the subdivision to Parcel 12 and/or Parcel 1 of DP-299; the plan for walking paths and access shall be reviewed and approved by the Director of Planning.

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- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.
- Jay Russell Developer stated that he is one of the owners of this property and that they as the developers on the adjoining piece have agreed and are in 100% agreement of the issues that have been discussed. Stated that as far as the fuel station is concerned, they have a verbal agreement from Wal-Mart that they are going to move that to the west and that they feel comfortable that is going to be done but do not have it in writing from them and would like to leave open with the understanding that they have agreed to move it to that site. Stated that they are all in agreement to the wording that John Schlegel has explained to the Council.
- Motion-- Fearey moved to adopt the findings of the MAPC with the addition of the amendment to item 23 that is before the Council with the additional wording added and the removal of item number 8 and approve the zone change subject to platting within one year and approve the CUP and instruct the planning department to forward the ordinance for first reading when the plat is forwarded to City Council.
- carried Motion carried 6 to 0, (Skelton absent).

NEW BUSINESS

UNSAFE STRUC. REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES. (DISTRICT I)

- Kurt Schroeder Office of Central Inspection reviewed the item.
- Agenda Report No. 06-0795
- On June 20, 2006 a report was submitted with respect to the dangerous and unsafe conditions on the properties below. The Council adopted resolutions providing for a public hearing to be held on these condemnation actions at 9:30 a.m. or as soon thereafter, on August 1, 2006.
- On June 5, 2006 the Board of Code Standards and Appeals (BCSA) held a hearing on five (5) properties. These properties are listed below:
- | Property Address | Council District |
|-------------------------|------------------|
| a. 1255 North Poplar | I |
| b. 1258 North Green | I |
| c. 1718 North Green | I |
| d. 2145 East Shadybrook | I |
| e. 1626 North Oliver | I |
- Detailed information/analysis concerning these properties are included in the attachments.
- On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Continued revitalization of the Core Area. Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.
- Pursuant to State Statute, the Resolutions were duly published twice on June 22, 2006, and June 29, 2006. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

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- Kurt Schroeder Central Inspection stated that there was an owner for the property listed as e. 2145 East Shadybrook, who did intend to come today but due to a medical procedure she was not able to attend. Stated that there has been a problem with the title due to a deceased husband but that she has now the title and has been taking care of the premise conditions and it is secured and staff is requesting to make a recommendation for the Council to consider and to proceed with condemnation for properties, a. 1255 North Poplar, b. 1258 North Green, c. 1718 North Green and e. 1626 North Oliver.
- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appear.
- Motion-- Brewer moved that the public hearing be closed; the resolutions declaring the buildings dangerous and unsafe structures adopted; and the BCSA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair the structures would be contingent on the following: (1) All taxes have been paid to date, as of August 1, 2006; (2) the structures have been secured as of August 1, 2006 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of August 1, 2006 and will be so maintained during renovation be accepted for properties a, b, c, and e. Motion carried 6 to 0, (Skelton absent).
- carried
- Motion-- Brewer moved that the property at d. 2145 East Shadybrook be given 15 days to come up with a plan that is acceptable and 60 days to finish the project. Motion carried 6 to 0, (Skelton absent).
- carried

RESOLUTION NO. 06- 414

A Resolution finding that the structure/s legally described as Lots 49-51 Mona now Poplar Street, Fairmount Park Addition to Wichita, Sedgwick County, Kansas, known as 1255 North Poplar, is unsafe or dangerous an directing the structures/s to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

RESOLUTION NO. 06-415

A Resolution finding that the structure/s legally described as Lots 50-52 Green Street, Fairmount Park Addition to Wichita, Sedgwick County, Kansas, known as 1258 North Green is unsafe or dangerous an directing the structures/s to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

RESOLUTION NO. 06-416

A Resolution finding that the structure/s legally described as Lots 32-34, Second Fairmount Orchards Addition to Wichita, Sedgwick County, Kansas, known as 1718 North Green, is unsafe or dangerous an directing the structures/s to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

RESOLUTION NO. 06-417

A Resolution finding that the structure/s legally described as Lot 2, Block 3, Builders Second Addition to Wichita, Sedgwick County, Kansas, known as 2145 East Shadybrook, is unsafe or dangerous an directing the structures/s to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

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RESOLUTION NO. 06-418

A Resolution finding that the structure/s legally described as North 10 ft. Lot 33 - all Lots 34-35 Block 16, University Heights Addition to Wichita, Sedgwick County, Kansas, known as 1626 North Oliver, is unsafe or dangerous and directing the structures/s to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, and Mayans, (Skelton absent).

2007 BUDGET

PUBLIC COMMENT ON THE 2007 ANNUAL OPERATING BUDGET.

Kelly Carpenter

Director of Finance reviewed the item.

Agenda Report No. 06-0796

On July 18, 2006, the City Manager presented his Proposed 2007/2008 Budget.

The proposed 2007 annual operating budget is \$485,102,402 – including all Tax Increment Financing (TIF) Funds and the Self-Supporting Municipal Improvement District (SSMID) Fund. Interfund transactions and appropriated reserves increase this amount to \$582,537,352. The inclusion of expendable trust funds, as required by law, is an additional \$59,752,780 for a total of \$642,290,132. The estimated mill levy for this budget would be 31.898 mills, no change from the levy for the current 2006 Adopted Budget. The General Fund property tax levy is \$62,159,930 (including a delinquency allowance) at an estimated 21.828 mills. The levy for the Debt Service Fund is \$28,386,130 (including a delinquency allowance) and is estimated at 10.000 mills.

The proposed budget is available to the public at any City branch library, at Department of Finance offices in City Hall, or on the Internet at www.wichita.gov. In addition, staff has presented the proposed budget to District Advisory Boards, as well as other community groups.

On July 18, 2006, the City Council approved the publication of the notice of the maximum dollars that may be expended in each fund, and of a mill levy of 31.898 mills, no change from the current levy, based on the estimated assessed valuation of \$2.838 billion.

The adoption of the annual budget provides the funding sources for services provided in each of the five goal areas.

State statutes require a formal public hearing prior to approval of the annual operating budget and for budget amendments of published funds. This official hearing is scheduled for August 8, 2006, on which date the Council must be adopt the budget to meet the statutory deadline.

Mayor Mayans

Mayor Mayans stated that he is still concerned about increasing the water rates.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

Emmitt Taylor

Mr. Taylor stated that he would like to see cameras placed in police cars and has personally had incidents happen to him within the last two months. Stated that he is a deacon and is very concerned and felt like he has been harassed and that for the protection of all of us including the police officers, this would be a huge benefit and that this be taken into consideration.

Rosalee Bradley

Ms. Bradley stated that she is the president of Wichita Independent Neighborhoods, (WIN) and that it has been difficult digesting the budget format and that WIN is aware that the budget has a great impact on life in neighborhoods. Stated that neighborhoods are the heart of the City and that they expect our government to provide certain services to help us achieve that quality of life. Stated that WIN and its member neighborhoods agree whole heartily with the Goals and Mission Statement and rather than addressing specific budget items she would like to address issues that are important to neighborhood, which are: vicious and dangerous dogs, street drainage, community policing, housing code violations, and parks and parkland. Stated that people understand the need to relieve the budget with fees for usage

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but if the fees become too high, those who most need to use the city's facilities will be priced out of the market. Stated that some city services should be supported by the community as a whole for the benefit of those areas that cannot bear the burden by themselves.

Sena Peden

Ms. Peden stated that the people have spoken and the Sunflower Community Action Group has done everything in their power and the people have spoken regarding cameras in police cars. Asked the City Council what they can do to see that the cameras are put in these cars and hopes that the Council is hearing their requests.

(Council Member Fearey momentarily absent)

Rickie Coleman

Ms. Coleman stated that this is a city wide issue and that they are still collecting signatures and asked that the Council not make District I give up their park money because this is not just a district problem but is a city wide problem and that when the Council votes on the budget asked that they remember that this is a city wide issue that they want it to work.

Unidentified speaker

Stated that he is a chaplain for the police and sheriff's department and has talked to a lot of offices that say that their lives are in jeopardy many times. Stated that he feels that cameras will tell a part of the story and that the City came up with ways to maintain tasers and feels like there is a way to find the money in the budget for these cameras. Urged the Council to make sure that they consider the safety of the citizens and the police officers when adopting the budget.

(Council Member Martz momentarily absent)

Unidentified speaker

Stated that the Council is discussion the budget for the future of the community and the cameras would be a pro-active move to prevent more negative experiences that have been mentioned from happening in the future. Stated that they do not see this as a catchall and end-all to everything but do see it as a big stepping-stone to establish trust between the citizens of this community and the police department. Stated that if the Council can justify the tasers then he does not see a reason why the cameras cannot be justified and that this is a city wide issue and that crime happens all over the City and not just the northeast part of the City.

JJ Selmon

Mr. Selmon stated that he is the staff organizer at the Sunflower Community Action Network and handed out a copy of part of the City Manager's proposed 2007-2008 budget as the organization chart for the City of Wichita and if you look at this the citizens of Wichita are at the top of this. Stated that the citizens are the ones who hire the Mayor and the Council and that they have collected over 8,000 signatures from people all over the City and have been to several City Council Meetings and if this organization chart is correct, then there should be no question that we should have video cameras in police cars with all the efforts that they have done. Stated that this is a great first step in developing accountability with our police department, which they feel is lacking.

Mayor Mayans

Mayor Mayans stated that he agrees with the speakers and those 10 cameras is just a feel-good thing and is not workable and that this is a citywide issue and with almost half a billion dollar budget and not be able to secure \$200,000.00 is unbelievable to him.

Motion--
--carried

Mayans moved that the public hearing be closed and the public comments be received. Motion carried 6 to 0, (Skelton absent).

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TRAFFIC COURT

ADMINISTRATIVE TRAFFIC COURT.

Kay Gales

Municipal Court Administrator reviewed the item.

Agenda Report No. 06-0797

The Administrative Traffic Court was established in 1997 with the purpose of creating an informal "citizens' court" and to decrease police overtime for court appearances. This Court has the authority to hear cases and accept pleas for traffic violations. The original concept was that a defendant could waive his/her right to an attorney and have a hearing or trial before a hearing officer/judge without a prosecutor's participation in the proceedings. The defendant was given an opportunity to tell their side of the story with the police officer that issued the citation there to give their perspective. While a prosecutor could not participate in the hearings, they could review the case prior to the hearing to determine if a plea negotiation was appropriate. The hearing officer/judge would consider the information presented and make a ruling.

In 1998 there were 6,822 cases (or 8.7% of the number of citations issued) scheduled on the Administrative Traffic Docket. The number of cases set for the Administrative Traffic Docket has steadily decreased since that time. In the years 2003-2005 a total of 2,700 cases were scheduled on the Administrative Docket. This was 1.2% of all citations issued during this period. Not only have the number of cases decreased, but the original purpose of these proceedings has changed as well. The proceedings are no longer being utilized in the manner in which they were intended, but rather as a forum for the individuals to complain about the Police Department, traffic ordinances and engineering, sign postings, and other perceived problems with City government.

Recently, a meeting was held with representatives from the Police Department, Law Department, and the Court. It was determined that this docket was no longer effective. It was recommended that the applicable ordinances be repealed. If repealed, cases that were previously scheduled for the Administrative Traffic Court would be set to the regular Traffic dockets. Continued efficiencies and cost savings policies to place police officers on call and to contact them prior to trial, giving them 50 minutes to arrive, would remain in place.

Repealing these ordinances will impact the Safe and Secure Community by providing a more efficient and effective Court operation.

The Law Department has drafted and approved the ordinances as to form.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Mayans moved that the Charter Ordinance repealing Charter Ordinance 181 and approve first reading of the ordinance repealing Section 1.04.155 of the Code of the City of Wichita be placed on first reading. Motion carried 6 to 0, (Skelton absent).

--carried

ORDINANCE

An Ordinance repealing Section 1.04.155 of the Code of the City of Wichita, Kansas, pertaining to administrative traffic court, introduced and under the rules laid over.

CHARTER ORDINANCE

A Charter Ordinance repealing Section 1 of Charter Ordinance No. 181, Section 3, Section 8, and Section 9 of Charter Ordinance No. 168; and amending Section 2, Section 4, Sections 5, Section 6, Section 7, and Section 10 charter Ordinance No. 168, of the Code of the City of Wichita, Kansas, relating to Municipal Court and the Code of Procedure for the Administrative Traffic Court, introduced and under the rules laid over.

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2006 ST. REHAB.

2006 STREET REHABILITATION PROGRAM. (DISTRICT V)

Chris Carrier

Public Works Director reviewed the item.

Agenda Report No. 06-0798

The 2005-2014 Capital Improvement Program includes ongoing funding to rehabilitate major streets.

The 2006 funds will reconstruct 135th St. West, between Maple and Central; and 37th St. North, between Maize and Tyler. The existing pavement is a two-lane asphalt mat road that is failing.

The project budget is \$400,000. The funding source is General Obligation Bonds.

This project addresses the Efficient Infrastructure goal by providing needed maintenance of an arterial street.

The Law Department has approved the authorizing Ordinance as to legal form.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Martz moved that the project be approved and the Ordinance placed on First Reading. Motion carried 6 to 0, (Skelton absent).

ORDINANCE

An Ordinance declaring 135th Street West, between Maple and Central and 37th Street North, between Maize and Tyler (2006 Street Rehabilitation Program) 472-84429 to be a main trafficway within the City of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same, introduced and under the rules laid over.

PAWNEE/MCLEAN

IMPROVEMENT TO THE INTERSECTION OF PAWNEE AND MCLEAN. (DISTRICTS III & IV)

Chris Carrier

Public Works Director reviewed the item.

Agenda Report No. 06-0799

On October 18, 2005, the City Council approved a project to improve the intersection of Pawnee and McLean. The project was to be funded in total by General Obligation bonds. Based on current bid prices, it is doubtful that a construction contract can be awarded within the approved budget. The project includes reconstruction of Pawnee west to Seneca. Federal funds are available for the cost increase. An amending Ordinance has been prepared to revise the project budget.

The project will reconstruct the intersection to improve the driving surface and drainage. Traffic signalization will also be improved.

The current budget is \$850,000 with the total paid by the City. The funding source for the City share is General Obligation Bonds. The proposed budget is \$1,750,000, with \$850,000 paid by the City and \$900,000 paid by Federal Grants administered by the Kansas Department of Transportation.

This project addresses the Efficient Infrastructure goal by improving traffic flow through a major traffic corridor.

The Law Department has approved the amending Ordinance as to legal form.

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Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Gray moved that the revised budget be approved; the amending Ordinance placed on First Reading and the signing of State/Federal agreements as required authorized. Motion carried 6 to 0, (Skelton absent).

ORDINANCE

An Ordinance amending Ordinance No. 46-806 of the City of Wichita, Kansas declaring the intersection of Pawnee and McLean (472-84007) to be a main trafficway within the City of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same, introduced and under the rules laid over.

FAÇADE PROGRAM FAÇADE IMPROVEMENT PROGRAM. (DISTRICTS I, III, IV & VI)

Chris Carrier

Public Works Director reviewed the item.

Agenda Report No. 06-0800

On March 21, 2006, as part of approving two facade improvement projects, the City Council asked that the Facade Program be returned on a future agenda to consider expanding the program boundaries and providing additional funding.

The Facade Improvement Program was established on March 20, 2001, as a means to provide low-cost loans to enhance the visual aesthetics in the downtown area and provide an incentive for businesses to improve their property. Low interest, fifteen-year loans are provided to owners of buildings with frontage on Douglas Avenue, between Seneca and Washington. Up to two facades per building can be improved with 25% of the cost up to \$30,000 in the form of a forgivable loan. Buildings of four stories or more do not have the two-facade limitation but are not eligible for the forgivable loan. The City Council has waived the regulations for three applications that would otherwise be ineligible because the buildings were not located on Douglas between Seneca and Washington.

Since its inception, the Facade Program has been focused on the Douglas corridor in the Downtown and Delano districts. With the increased pace of redevelopment in the downtown area and the creation of neighborhood plans, it is proposed that the Program be expanded to target the commercial corridors listed below and illustrated on the attached map:

Downtown Self Supporting Municipal Improvement District (SSMID)

Center City

Douglas, from Washington to I-135

Delano

21st Redevelopment Area (International Marketplace)

South Central (South Broadway area)

Midtown

McAdams

Central Northeast

In addition, it is proposed that the Program guidelines be modified to permit a conversion of use on a case-by-case basis. This is in response to the growing interest in residential redevelopment projects in the downtown area.

The City Council previously allocated \$350,000 for the forgivable loan component of the program. Twenty projects have been approved to date with forgivable loans totaling \$267,107, leaving \$82,893 available for future projects. An additional \$411,000 is requested to fund a continuation of the program into the expanded area. The funding source is savings from refunded State Office Building bonds and the Learjet Way project. In order to maximize the use of the additional funding, it is proposed that the forgivable loan be reduced from \$15,000 to \$10,000 per facade for buildings with one visible facade. It

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is proposed that a 2% administrative fee be charged to recover most of Public Works-Engineering's cost to administer the program.

This program addresses the Dynamic Core Area and Vibrant Neighborhoods goal by facilitating improvements to privately owned buildings.

State Statutes provide the City Council authority to use Special Assessment funding for the projects.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Fearey moved that the revised program regulations be approved; the areas expanded to include the Downtown Self Supporting Municipal Improvement District and commercial corridors within the neighborhood planning areas and additional funding in the amount of \$411,000 approved. Motion carried 6 to 0, (Skelton absent).

--carried

PLANNING AGENDA

Motion--

Mayans moved that planning consent item 31 be approved in accordance with the recommended action shown thereon. Motion carried 6 to 0, (Skelton absent).

--carried

DR2005-29

DR2005-29-DUNBAR THEATER REDEVELOPMENT FEASIBILITY STUDY. (DISTRICT D)

John Schlegel

Planning Director reviewed the item.

Agenda Report No. 06-0801

The McAdams Neighborhood Revitalization Plan was adopted as an amendment of The Wichita-Sedgewick County Comprehensive Plan in May 2003. Goal 4 of the McAdams Neighborhood Revitalization Plan states, "Redevelop the historic Dunbar Theater area as a visual and performing arts center, and promote the development of community outreach facilities at the Phyllis Wheatley Center." Action Plan 4.1 states, "Confirm community support and undertake a feasibility analysis of community-based, visual and performing arts reuse/redevelopment opportunities associated with the Dunbar Theatre/Turner Drug Store area. Incorporate recognition of the African American heritage of the neighborhood and those McAdams residents who have achieved local, state and national notoriety."

In January 2006, the City of Wichita commissioned a \$35,000 study that was prepared by Hardlines Design Company of Columbus, Ohio; AMS Planning & Research of St. Louis, Missouri; and Professional Engineering Consultants of Wichita, Kansas. The attached Dunbar Theater Redevelopment Feasibility Study Report indicates that redevelopment of the Dunbar Theater would fill an unmet niche in the community for a performing arts venue with approximately 200 seats and also would provide the surrounding neighborhoods a much needed location to host meetings and receptions.

On May 22, 2006, the study was presented to about 30 neighborhood leaders from McAdams and surrounding neighborhoods. The neighborhood leaders that attended the meeting expressed support for redevelopment of the Dunbar Theater and the surrounding neighborhood. On July 6, 2006, the study was presented to the Metropolitan Area Planning Commission. Feedback from the MAPC included disagreement with the consultant's recommendation that a redeveloped Dunbar Theater be operated by the City and a concern that funding for the project would be a drain on City funding for other programs.

The study estimates that the facility could be redeveloped at an approximate cost of \$1.5 million and that an annual operating subsidy of approximately \$215,000 would be needed to operate the facility. Implementation of the study's recommendations will depend upon neighborhood leadership's ability to garner support from the greater community and to raise the necessary resources. The study indicates a number of possible sources for funding, including possible City funding. No City funds have been budgeted for the project, other than funding the study.

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The Dunbar Theater Redevelopment Feasibility Study Report addresses the goal to support a dynamic core area and vibrant neighborhoods. The report indicates that the redevelopment of the Dunbar Theater is feasible and is a critical component of the redevelopment of the McAdams Neighborhood.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--carried

Brewer moved that the report be received and filed. Motion carried 6 to 0, (Skelton absent).

SUB2006-42

SUB2006-42-PLAT OF WALDROP WOODS ADDITION, LOCATED ON THE SOUTH SIDE OF 77TH STREET NORTH AND WEST OF OLIVER. (COUNTY)

Agenda Report No. 06-0802

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (10-0)

This unplatted site, consisting of three lots on 10.24 acres, is located within three miles of Wichita's city limits. The site is zoned RR, Rural Residential District.

Since sanitary sewer is unavailable to serve this property, County Code Enforcement has approved on-site sewerage facilities. The site is currently located within the Sedgwick County Rural Water District Number 2.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Ensure Efficient Infrastructure.

Motion--
--carried

Mayans moved that the plat be approved and the necessary signatures authorized. Motion carried 6 to 0, (Skelton absent).

AIRPORT AGENDA

Motion--
--carried

Mayans moved that the consent airport items be approved in accordance with the recommended action shown thereon. Motion carried 6 to 0, (Skelton absent).

SUBLEASE AGRMNT

SUBLEASE AGREEMENT BETWEEN KOCH BUSINESS HOLDINGS, LLC AND EAGLEJET AVIATION FOR USE OF A PORTION OF HANGAR 16 ON WICHITA MID-CONTINENT AIRPORT.

Agenda Report No. 06-0803

On January 24, 2006, the Wichita Airport Authority approved an assignment of leases and consent to assignment and estoppel certificate for the use of Hangar 16 on Wichita Mid-Continent Airport from Wichita Airport Facilities, Inc. to Koch Business Holdings, LLC.

Koch has been approached by a fixed base operator, EagleJet Aviation, to sublease the north half of Hangar 16 for aircraft storage. Koch does not have an immediate need for the hangar and is desirous of subleasing the space on a year-to-year basis to EagleJet Aviation.

There is no financial impact to the Wichita Airport Authority.

The Airport's contribution to the economic vitality of Wichita is promoted by utilizing existing facilities to the fullest extent.

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The Law Department has approved the sublease agreement as to form.

Motion-- Mayans moved that the sublease agreement be approved and the necessary signatures. Authorized.
--carried Motion carried 6 to 0, (Skelton absent)

SUPP. AGREEMENT SUPPLEMENTAL AGREEMENT-CESSNA AIRCRAFT COMPANY, FIELD USE FEE.

Agenda Report No. 06-0804

For the past 50 years, the Wichita Airport Authority has had agreements with Cessna Aircraft Company, which allow access to the airfield via connecting taxiways. This current 25-year agreement expires on July 31, 2006.

Cessna Aircraft is desirous of extending the field use agreement for another 25-year period. This extension will allow Cessna to have continued access to the airfield via two taxiways which connect Cessna's leased and owned property with the runway system of the airport. Cessna will continue to maintain and repair the taxiways over the term of the extension.

The current fee for this access is \$4,500 per year. The fee projected for the extension period is \$6,300 per year.

The Airport's contribution to the economic vitality of Wichita is promoted through initiating agreements, which allow the Airport to continue its operation on a self-sustaining basis, and to facilitate the operations of airport tenants.

The Supplemental Agreement has been approved as to form by the Department of Law.

Motion-- Mayans moved that the Supplemental Agreement be approved and the necessary signatures
--carried authorized. Motion carried 6 to 0, (Skelton absent).

EXPRESSJET EXPRESSJET AIRLINES D/B/A CONTINENTAL EXPRESS, SUPPLEMENTAL AGREEMENT NO. 5.

Agenda Report No. 06-0805

The Wichita Airport Authority has a uniform lease and use agreement with the passenger carrying airlines serving Wichita Mid-Continent Airport. The term of the agreement is through December 31, 2006. ExpressJet is interested in leasing ticket counter space to accommodate its customers.

The airline agreement allows space to be added by contract amendment. The supplemental agreement includes an exhibit, which reflects the leasing of an additional 105 sq. ft. of ticket counter space.

The current rate for use of ticket counter space is \$43.66 per sq. ft. This will result in annual revenue to the WAA of \$4,584.

The Airport's contribution to the economic vitality of Wichita is promoted through initiating agreements, which allow the Airport to continue its operation on a self-sustaining basis, and to facilitate the operations of airport tenants.

The Supplemental Agreement has been approved as to form by the Department of Law.

Motion-- Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized.
--carried Motion carried 6 to 0, (Skelton absent).

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CITY COUNCIL

BOARD APPTS.

BOARD APPOINTMENTS.

There were no appointments to be made.

RECESS

Motion--

Mayans moved that the City Council recess at 1:30 p.m. into Executive Session to consider: consultation with legal counsel on matters privileged in the attorney-client relationship relating to: potential litigation, legal advice, contract negotiations and personnel matters of non-elected personnel and that the Council return from Executive Session no earlier than 2:10 p.m. and reconvene in the City Council Chambers on the First Floor of City Hall. Motion carried 6 to 0, (Skelton absent).

--carried

RECONVENE

The City Council reconvened at 2:13 p.m. Mayor Mayans announced that no action was taken.

Motion--carried

Mayans moved to close the Executive Session. Motion carried 4 to 0, (Brewer, Martz and Skelton absent).

Motion--carried

Mayans moved at to close the Regular Meeting. Motion carried 4 to 0, (Brewer, Martz and Skelton absent).

ADJOURNMENT

The City Council meeting adjourned at 2:14 p.m.

Respectfully submitted,

Karen Sublett CMC
City Clerk

Workshop followed in the First Floor Board Room